

**TOWN-PLANNING AND TOWNSHIPS ORDINANCE
NO. 15 OF 1986**

ASSENTED TO BY THE STATE PRESIDENT
ON THE 18 DECEMBER, 1986 -
AFRIKAANS TEXT SIGNED.

DATE OF COMMENCEMENT:
10 JUNE, 1987

as amended by
Proclamation No. 1 of 1992
Proclamation No. R. 161 of 1994

GENERAL NOTE

In terms of Proclamation No. R. 161 of 31 October, 1994, the administration of Ordinance No. 15 of 1986 has been assigned to this Province.

ORDINANCE

To consolidate and amend the laws relating to town-planning and the establishment of townships; and to provide for matters incident thereto.

BE IT ENACTED by the Provincial Council of Transvaal as follows:

PRELIMINARY

1. Definitions

(1) In this Ordinance, unless the context otherwise indicates—

"Administrator", in so far as a provision of this Ordinance is applied in or with reference to a particular province, means the competent authority to whom the administration of this Ordinance has under section 235(8) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), been assigned in that province;

[Definition of "Administrator" substituted by para. 1(a) of Proc. R.161 of 1994]

"amendment scheme" means—

- (a) an amendment scheme contemplated in section 18(3);
- (b) an application deemed to be an amendment scheme in terms of section 45(20) or 57(1)(a)(ii);
- (c) a scheme which is an amendment scheme by virtue of the provisions of section 141;

"approved scheme" means—

- (a) an approved scheme of which notice was given in terms of section 39(1) or 125(1);

(b) an application or scheme deemed to be an approved scheme in terms of section 45(20), 57(1)(a) or 125(1);

(c) a scheme which is an approved scheme by virtue of the provisions of section 141;

"approved township" means—

(a) a township declared an approved township in terms of section 79 or 103;

(b) a township approved in terms of any repealed law relating to townships;

"authorised local authority" means a local authority declared an authorised local authority in terms of section 2;

"Board", in so far as a provision of this Ordinance is applied in or with reference to a particular province, means, subject to section 3 (2), the board established for that province by section 3 (1);

[Definition of "Board" substituted by para. 1(b) of Proc. R. 161 of 1994]

"building" includes any structure of any nature whatsoever;

"compensation court", in so far as a provision of this Ordinance is applied in or with reference to a particular province, means a compensation court established for that province in terms of section 17;

[Definition of "compensation court" substituted by para. 1(c) of Proc. R. 161 of 1994]

"Director", in so far as a provision of this Ordinance is applied in or with reference to a particular province, means an officer in the provincial administration of that province designated to perform the functions entrusted by or under this Ordinance to the Director;

[Definition of "Director" substituted by para. 1(d) of Proc. R. 161 of 1994]

"draft scheme" means a draft scheme contemplated in section 28 (1);

"erf" means land in an approved township registered in a deeds registry as an erf, lot, plot or stand or as a portion or the remainder of any erf, lot, plot or stand or land indicated as such on the general plan of an approved township, and includes any particular portion of land laid out as a township which is not intended for a public place, whether or not such township has been recognised, approved or established as such in terms of this Ordinance or any repealed law;

"external engineering services" means the engineering services classified as such in terms of section 117;

"general plan" means a general plan as defined in section 49 of the Land Survey Act, 1927 (Act 9 of 1927);

"interim scheme" means an interim scheme contemplated in section 29(3);

"internal engineering services" means the engineering services classified as such in terms of section 117;

"land" includes any improvement on land and any interest in land;

"local authority" means—

- (a) a. city council, town council, village council or health committee established in terms of the Local Government Ordinance, 1939 (Ordinance 17 of 1939);
- (b) the Local Government Affairs Council Act established under section 2(1) of the Local Government Affairs Council Act (House of Assembly), 1989 (Act No. 84 of 1989): Provided that that Board shall not be deemed to be a local authority for purposes of any condition subject to which the establishment of any township in terms of the Townships and Town-planning Ordinance, 1931 (Ordinance 11 of 1931), or any repealed law governing the establishment of townships was approved by the Administrator prior to the 31st day of May 1943, unless the Administrator has by proclamation in the *Provincial Gazette* declared that Board to be a local authority for purposes of any such condition;

[Definition of "local authority" amended by para. 1 of Proc. 1 of 1992]

"original scheme" means an original scheme contemplated in section 18(2);

"province" means the Province of Eastern Transvaal, Northern Transvaal the North-West or Pretoria-Witwatersrand-Vereeniging established in terms of section 124 of the Constitution of the Republic of South Africa, 1993;

[Definition of "province" inserted by para. 1(e) of Proc. R. 161 of 1994]

"prescribe" means to prescribe by regulation;

"Registrar" means a registrar as defined in section 102 of the Deeds Registries Act, 1937 (Act 47 of 1937);

"regulation" means a regulation made in terms of this Ordinance;

"services appeal board", in so far as a provision of this Ordinance is applied in or with reference to a particular province, means a services appeal board established for that province in terms of section 123;

[Definition of "services appeal board" substituted by para. 1(f) of Proc. R. 161 of 1994]

"Surveyor-General" means the Surveyor-General as defined in section 49 of the Land Survey Act, 1927;

"this Ordinance" includes any regulation;

"town-planning scheme in operation" or any like expression means—

- (a) a town-planning scheme which is in operation as contemplated in section 18(4);
- (b) a town-planning scheme in operation by virtue of the provisions of section 141;

"township" means any land laid out or divided into or developed as sites for residential, business or industrial purposes or similar purposes where such sites are arranged in such a manner as to be intersected or connected by or to abut on any street, and a site or street shall for the purposes of this definition include a right of way or any site or street which has not been surveyed or which is only notional in character;

"township owner" means the person who is the owner of an approved township or any remaining portion of an approved township or his successor in township title.

[Previous s. 1 renumbered to sub-s. (1) by para. 1(g) of Proc. R. 161 of 1994]

- (2) In so far as this Ordinance is applied in or with reference to a particular province, any reference in this Ordinance to the Transvaal Provincial Administration shall be construed as a reference to the provincial administration of that province.

[Sub-s. (2) inserted by para. 1(g) of Proc. R. 161 of 1994]

2. Power to declare local authority an authorised local authority

- (1) The Administrator may, by proclamation in the *Provincial Gazette*, declare any local authority an authorised local authority for purposes of Chapter II, HI, or IV.
- (2) The Administrator may, at any time, amend or cancel a proclamation contemplated in subsection (1) by like proclamation without assigning any reason therefor.
- (3) Any application, town-planning scheme or other matter in terms of any provision of this Ordinance which is pending before the Administrator, the Board, the Director or a local authority on the date a proclamation is published in terms of subsection (1) or (2) shall be dealt with as if such a proclamation had not been published.

CHAPTER I THE TOWNSHIPS BOARD AND COMPENSATION COURTS

3. Establishment of Townships Board

- (1) A Township Board is hereby established for each province.
- (2) The Township Board which in terms of this Ordinance existed immediately before the assignment of the administration of this Ordinance under section 235(8) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), to a competent authority within the government of a province, shall cease to exist with effect from the date of such assignment: Provided that any matter pending before such Board immediately before the said date shall be disposed of by such Board as if it had not ceased to exist.

[S. 3 substituted by para. 2 of Proc. R. 161 of 1994]

4. Constitution of Board

- (1) The Board shall consist of the following members:
 - (a) a chairman appointed by the Administrator on such terms and conditions as he may determine;

- (b) the Director or any person in the Public Service of the Republic authorised by him to act on his behalf; and
 - (c) not more than 15 other members appointed by the Administrator on such terms and conditions as he may determine, hereinafter referred to as appointed members, and who, in his opinion, possess qualifications necessary or useful for purposes of this Ordinance.
- (2) The Administrator shall, on such terms and conditions as he may determine, appoint one of the members as vice-chairman.
 - (3) Where the chairman is absent the vice-chairman shall act as chairman and where both the chairman and vice-chairman are absent the remaining members shall elect one of their number to act as chairman.
 - (4) The Administrator may appoint an alternate for a member contemplated in subsection (1)(c) to act in the stead of the member when he is unable to attend a meeting of the Board.

5. Period of office of appointed member

- (1) Subject to the provisions of section 6, an appointed member shall hold office for such period, but not exceeding 5 years, as the Administrator may determine at the time of his appointment.
- (2) An appointed member whose period of office has expired may be reappointed.

6. Removal from office

The Administrator may, at any time and for good and sufficient reason, remove the chairman, vice-chairman or an appointed member from office.

7. Power of Administrator to fill vacancies

Where the office of an appointed member becomes vacant, the Administrator may appoint any other person who possesses the qualifications contemplated in section 4 (1) (c) in the stead of such a member.

8. Meetings

- (1) Subject to the provisions of subsection (2) and (3), a meeting of the Board shall be held at such time and place as the Board may determine.
- (2) Where an application in terms of the provisions of this Ordinance is pending before the Board, the Board shall meet at least once per month.
- (3) An extraordinary meeting of the Board may be convened by the chairman and he shall convene such a meeting if at least 3 members of the Board so request in writing.
- (4) 5 Members of the Board shall constitute a quorum for a meeting of the Board.

- (5) A decision of a majority of the members of the Board present at a meeting shall be the decision of the Board, and in the event of an equality of votes the chairman shall have a casting vote in addition to his deliberative vote.

9. Committees

- (1) The Board may, from time to time, appoint from its number one or more committees for any purpose which, in the opinion of the Board, would be better achieved by means of such a committee.
- (2) A committee of the Board shall consist of such number of members as the Board may determine.
- (3) The Board shall determine the quorum of every committee.
- (4) The Board shall designate the chairman of every committee.
- (5) Where the chairman is absent, the remaining members shall elect one of their number to act as chairman.
- (6) A decision of a majority of the members of a committee present at a meeting shall be the decision of the committee, and in the event of an equality of votes the chairman shall have a casting vote in addition to his deliberative vote.

10. Prohibition of presence at or participation in proceedings of Board or committee

No member of the Board shall be present at or take part in proceedings of the Board or a committee thereof in which he has a direct or indirect pecuniary interest.

11. Rules regulating procedure and proceedings

The Board may, subject to the provisions of this Ordinance, make its own rules regulating its procedure and proceedings or the procedure and proceedings of a committee of the Board.

12. Designation of secretary

The Director shall designate a member of his staff as the secretary of the Board.

13. Powers and duties of Board

- (1) The Boards—
 - (a) shall exercise the powers conferred and perform the duties imposed upon it by this Ordinance;
 - (b) shall report through the Director to the Administrator on any matter which the Administrator may refer to it;
 - (c) may, in its discretion and in the manner contemplated in paragraph (b), report to the Administrator on any matter to which this Ordinance relates.
- (2) Where the Board has, in terms of any provision of this Ordinance, made a recommendation to the Administrator in respect of an application, town-planning

scheme or appeal, the Administrator may, before giving his decision on the application, scheme or appeal and if he deems it expedient, direct the Board—

- (a) to hold a further inspection or hearing or institute a further investigation;
- (b) to reconsider its recommendation.

14. Witnesses

The provisions of sections 6, 7, 8 and 12 of the Commissions of Inquiry Ordinance, 1960 (Ordinance 9 of 1960), shall apply *mutatis mutandis* to the Board, and for the purposes of those sections a reference to a commission or the chairman or secretary of a commission shall be construed as a reference to the Board or the chairman or secretary of the Board respectively.

15. Delegation of powers and duties to committee or member

- (1) The Board may, subject to such restrictions or conditions as it may deem expedient—
 - (a) delegate any power conferred or duty imposed upon it by this Ordinance, including the power or duty contemplated in section 139, to any of its committees;
 - (b) delegate any power conferred or duty imposed upon it by this Ordinance, excluding the power or duty contemplated in section 139, to any of its members.
- (2) The Board may, at any time, revoke a delegation contemplated in subsection (1).

16. Fees and allowances

An appointed member shall be paid such fees and allowances as the Administrator may, from time to time, either generally or specifically, prescribe or determine.

17. Compensation courts

- (1) The Administrator shall, from time to time by notice in the *Provincial Gazette*, establish one or more compensation courts to settle disputes relating to compensation payable in terms of this Ordinance, and he may in like manner abolish such a court.
- (1A) Any compensation court established in terms of this Ordinance before the assignment of the administration of this Ordinance under section 235(8) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), to a competent authority within the government of a province, shall cease to exist with effect from the date of such assignment: Provided that any matter pending before any such compensation court immediately before the said date shall be disposed of by such compensation court as if it had not ceased to exist.

[Sub-s. (1A) inserted by para. 3 of Proc. R. 161 of 1994]

- (2) A compensation court shall consist of the following members appointed by the Administrator on such terms and conditions as he may determine:
 - (a) a president who shall be an advocate or attorney or a retired judge or magistrate;
 - and

- (b) 2 other persons registered as valuers or associated valuers in terms of the Valuers' Act, 1982 (Act 23 of 1982).
- (3) The Administrator may appoint an alternate for any member of a compensation court to act in the stead of the member when he is unable to attend a sitting of the court.
- (4) The Administrator may, at any time and for good and sufficient reason, remove any member of a compensation court from office.
- (5) Where the office of a member of a compensation court becomes vacant, the Administrator shall, by notice in the *Provincial Gazette*, appoint any other person who possesses the qualifications required in terms of subsection (2) for the office concerned, in the stead of the member.
- (6) No member of a compensation court shall take part in proceedings of the court in which he has a direct or indirect pecuniary interest.
- (7) A compensation court may, subject to the provisions of this section, make its own rules regulating its procedure and proceedings.
- (8) The Director shall designate a member of his staff as the secretary of a compensation court.
- (9) The provisions of section 6, 7, 8 and 12 of the Commissions of Inquiry Ordinance, 1960, shall apply *mutatis mutandis* to a compensation court, and for the purposes of those sections a reference to a commission or the chairman or secretary of a commission shall be construed as a reference to a compensation court or the president or secretary of a compensation court respectively.
- (10) A member of a compensation court shall be paid such fees and allowances as the Administrator may, from time to time, either generally or specifically, prescribe or determine, and such fees and allowances shall for the purposes of subsection (13) be deemed to be costs.
- (11) Any party to a dispute serving before a compensation court, may appear in person or may be represented by any other person.
- (12) A compensation court shall not consider a claim for compensation before the person claiming the compensation has deposited with the Director such amount of money as may be prescribed as security for costs.
- (13) When a compensation court gives its decision—
- (a) it shall make an order as to the costs contemplated in subsection (10);
- (b) it may make such order as to other costs as it may deem just,
- and where it makes such an order it shall, in its discretion, determine the amount of the costs.
- (14) Where an order is made in terms of subsection (13) against the person claiming compensation and he fails to comply with the order, the Director may pay the costs awarded or any portion thereof from the amount deposited by such person in terms of subsection (12), and refund the balance, if any, to him.

- (15) Award of compensation by a compensation court shall be claimable within a period of 60 days from the date of the decision of the court.

CHAPTER II TOWN-PLANNING SCHEMES

PART A GENERAL PROVISIONS

18. Preparation of town-planning scheme by local authority

- (1) A local authority—
- (a) may, of its own accord;
 - (b) shall, if directed to do so by the Administrator, within such period as the Administrator may determine,
- prepare a town-planning scheme in respect of all or any land situated within its area of jurisdiction and the local authority—
- (i) may, with the consent of;
 - (ii) shall, if directed to do so by,
- the Administrator, prepare such a scheme in respect of specified land situated outside its area of jurisdiction and that of another local authority.
- (2) A town-planning scheme which—
- (a) is the first scheme of a local authority;
 - (b) is the first scheme for a portion of the area of jurisdiction of the Transvaal Board for the Development of Peri-Urban Areas designated by the Administrator,
- shall be known as an original scheme.
- (3) A town-planning scheme which—
- (a) is an amendment or extension of an original scheme;
 - (b) is a new scheme substituting an original scheme;
 - (c) is an amendment or extension of a new scheme contemplated in paragraph (b), shall be known as an amendment scheme.
- (4) An original scheme, together with an amendment scheme amending or extending the original scheme, which is in operation or a new scheme contemplated in subsection (3)(b), together with any other amendment scheme amending or extending the new scheme, which is in operation, shall be known as a town-planning scheme in operation.

19. General purpose of town-planning scheme

The general purpose of a town-planning scheme shall be the co-ordinated and harmonious development of the area to which it relates in such a way as will most effectively tend to promote the health, safety, good order, amenity, convenience and general welfare of such area as well as efficiency and economy in the process of such development.

20. Provisions which may be contained in town-planning scheme

- (1) A town-planning scheme may—
 - (a) provide that the Administrator or the local authority may, in his or its discretion and on such conditions as he or it may determine, consent to the use of any land or building for a particular purpose;
 - (b) provide that the local authority may, in its discretion and on such conditions as it may determine, including a condition requiring the payment of an amount of money to the local authority, grant exemption from the provisions of the scheme stated therein or relax the requirements of those provisions;
 - (c) contain such other provisions as may be prescribed or which relate to town-planning in general.
- (2) Where consent is granted by virtue of subsection (1)(a), the conditions on which the consent is granted may include a condition that—
 - (a) the consent shall lapse if the use of the land or building concerned is—
 - (i) not commenced within the period stated in the condition;
 - (ii) discontinued for a period stated in the condition;
 - (b) the consent shall lapse on the expiry of a period or on the occurrence of an event stated in the condition;
 - (c) the person to whom the consent is granted shall pay to the local authority an amount of money in respect of the provision of—
 - (i) the engineering services contemplated in Chapter V where it will be necessary to enhance or improve such services as a result of the granting of the consent;
 - (ii) open spaces or parks where the granting of the consent will bring about a higher residential density.
- (3) Where a local authority imposes a condition in terms of subsection (2)(c) requiring the payment of an amount of money to it, it shall notify the person concerned in writing thereof, and such amount of money shall—
 - (a) in the case of a condition imposed in terms of subparagraph (i) of that subsection, be determined—
 - (i) by agreement; or

- (ii) in the absence of agreement, by the Services Appeal Board designated by the Director on the application by either such person or the local authority;
- (b) in the case of a condition imposed in terms of subparagraph (ii) of that subsection, be determined by the local authority in the manner prescribed, and the local authority shall state in the notice—
 - (i) the amount determined;
 - (ii) particulars of the manner in which the amount was determined;
 - (iii) the purpose for which the money is required:

Provided that in calculating the amount a contribution paid, payable or becoming payable in terms of section 48 or 63 shall be taken into account.

- (4) Any person who is aggrieved by a condition imposed by a local authority by virtue of or in terms of—
 - (a) subsection (1)(b) requiring the payment of an amount of money to the local authority may, within a period of 28 days from the date he has been notified of the condition, or such further period, not exceeding 28 days, as the Administrator may allow, appeal in writing through the Director to the Administrator, and the Administrator may, after having given the local authority the opportunity of stating its case, reduce or increase the amount or direct that no money shall be payable;
 - (b) subsection (2)(a), (b) or (c)(ii) may appeal in terms of section 139 to the Board;
 - (c) subsection (2)(c)(i) may appeal in terms of section 124 to the Services Appeal Board designated by the Director.
- (5) Where the Administrator or a local authority has, in terms of the provisions of a town-planning scheme, consented to the use of any land or building for a particular purpose on condition that an amount of money, determined in accordance with subsection (3), be paid to the local authority, the land or building shall not be so used until such time as the amount is paid or arrangements to the satisfaction of the local authority have been made for the payment of the amount.
- (6) A local authority which intends using its land or building for a purpose for which its town-planning scheme provides in terms of subsection (1) that consent may be granted or which intends causing its land or building to be so used—
 - (a) shall, in the manner set out in the scheme, give notice thereof; and
 - (b) shall consider all objections lodged and all representations made by virtue of a notice contemplated in paragraph (a),

before resolving so to use the land or building or causing it to be so used.
- (6A) If a local authority has taken a decision by virtue of or in terms of subsection (1)(a), the local authority concerned shall without delay and in writing notify the applicant, an objector or any person who has made representations of its decision.

[Sub-s. (6A) inserted by para. 2 of Proc. 1 of 1992]

- (6B) If a local authority has taken a decision or imposed a condition by virtue of or in terms of the provisions of subsection (1) or (2), such local authority shall, at the written request of the applicant, a person referred to in subsection (4), an objector or any person who has made representations, and on payment of the prescribed fees, in writing furnish the reasons for its decision or the imposing of a condition.

[Sub-s. (6B) inserted by para. 2 of Proc. 1 of 1992]

- (7) Any person who has lodged an objection or made representations by virtue of a notice contemplated in subsection (6) (a) and who is aggrieved by a resolution of the local authority to use its land or building for a purpose contemplated in that subsection or cause it to be so used, may appeal to the Board in terms of section 139.

21. Town-planning scheme in respect of proclaimed land

- (1) Subject to the provisions of subsection (3) and section 22, a local authority shall not prepare a town-planning scheme in respect of land—

(a) which is proclaimed land;

(b) on which prospecting, digging or mining operations are being carried out,

unless such land is situated within an approved township or within a township in respect of which a notice as contemplated in section 111 was published.

- (2) Where any land to which a town-planning scheme in operation relates becomes proclaimed land, the scheme shall no longer apply thereto.

- (3) Notwithstanding the provisions of subsection (1), a local authority may prepare a town-planning scheme in respect of proclaimed land—

(a) (i) which is situated within an area in respect of which application has, in terms of provisions of this Ordinance, been made for the establishment of a township;

(ii) where a local authority has, in terms of the provisions of this Ordinance, taken steps to establish a township thereon,

so far as such land has, in terms of section 184 of the Mining Rights Act, 1967 (Act 20 of 1967), been reserved for purposes of a township: Provided that the provisions of the scheme shall not have the force of law until—

(aa) a township has been established on such land and has, in terms of section 79 or 103, been declared an approved township; or

(bb) the Administrator or the authorised local authority concerned has, in terms of section 111, declared that a township has been established on such land,

as the case may be;

- (b) not used for mining purposes or purposes incidental thereto, excluding residential purposes, if the owner thereof, with the written consent of the Director General: Mineral and Energy Affairs and the holder of any mining title, so requests.
- (4) For the purposes of this section "proclaimed land" and "mining title" shall have the meaning assigned thereto in section 1 of the Mining Rights Act, 1967.

22. Town-planning scheme in respect of de-proclaimed land

- (1) When a notice of intention to de-proclaim land is published in terms of section 44(3) of the Mining Rights Act, 1967, and the land defined in the notice is situated within the area of jurisdiction of a local authority—
 - (a) the local authority may, of its own accord;
 - (b) the local authority shall, if directed to do so by the Administrator, within such period as the Administrator may determine,

prepare a town-planning scheme in respect of that land or any portion thereof.
- (2) A town-planning scheme prepared in terms of subsection (1) shall not contain any provision which affects any title, right or permit contemplated in section 44(4) of the Mining Rights Act, 1967.
- (3) The provisions of a town-planning scheme prepared in terms of subsection (1) shall not have the force of law until the land to which it relates is de-proclaimed in terms of section 44(1) of the Mining Rights Act, 1967.

23. Duty to make surveys and prepare reports and power to appoint town-planning committee

For purposes of—

- (a) preparing a town-planning scheme a local authority shall make such surveys and prepare such maps and documents as may be prescribed;
- (b) preparing and implementing a town-planning scheme a local authority may appoint a town-planning committee, the members of which need not necessarily be members of the local authority, to enquire into and report on any matter relating to the scheme.

24. Prohibition of works on and use of certain land

- (1) Where a local authority intends to acquire land it may prohibit—
 - (a) the proposed erection or alteration of or addition to any building on the land;
 - (b) any other proposed work on the land;
 - (c) any particular use of the land.
- (2) Where a local authority fails within a period of 6 months from the date of a prohibition imposed in terms of subsection (1) to take possession of the land concerned, the prohibition shall lapse and in such a case no further prohibition shall be so imposed in respect of that land.

- (3) The owner of land affected by a prohibition imposed in terms of subsection (1) may, in addition to any other right which he may have in terms of this Chapter, claim compensation from the local authority which imposed the prohibition for any loss suffered by him on account of the prohibition, and where the amount of the compensation cannot be mutually agreed upon, a compensation court designated by the Director shall determine the compensation.
- (4) Any person who contravenes or fails to comply with a prohibition imposed in terms of subsection (1) shall be guilty of an offence.
- (5) Where any person has erected, altered or added to a building or other work in contravention of a prohibition imposed in terms of subsection (1), the local authority may remove the building or other work and recover all expenses incurred in connection therewith from such person.

25. Prohibition of approval of general plan or diagram of subdivision or consolidation of land in certain circumstances

- (1) Subject to the provisions of subsection (2), the Surveyor-General shall not approve a general plan or diagram of—
 - (a) a subdivision of land to which a town-planning scheme in operation relates, unless—
 - (i) the local authority or the Board, in a matter before the Board on appeal, or the Administrator or a Minister of State has approved the subdivision in terms of the provisions of this Ordinance or any other law relating to the subdivision of land;
 - (ii) the Administrator or a Minister of State has, in terms of the provisions of this Ordinance or any other law relating to the subdivision of land, granted exemption either generally or specifically from compliance with the provisions of this Ordinance or that other law;
 - (b) a consolidation of land to which a town-planning scheme in operation relates unless the local authority or the Board in a matter before the Board on appeal has approved the consolidation.
- (2) Where application is made to a local authority to consolidate land as contemplated in subsection (1)(b) and the local authority fails to approve or refuse the application within a period of 60 days from the date of receipt of the application, it shall be deemed that the local authority has approved the application.
- (3) The provisions of subsection (1)(b) shall not apply to a consolidation of land where the diagrams for consolidated title were lodged with the Surveyor-General prior to the date of the commencement of this Ordinance.

26. Provision of interim or approved scheme in conflict with by-law

Where a provision of an interim or approved scheme is in conflict with the provisions of a by-law of a local authority, the provisions of the scheme shall have precedence.

PART B
PROVISIONS APPLICABLE TO TOWN PLANNING SCHEMES RELATING TO LAND
SITUATED WITHIN AREAS OF JURISDICTION OF LOCAL AUTHORITIES WHICH
ARE NOT AUTHORISED LOCAL AUTHORITIES

27. Application of Part

- (1) The provisions of this Part shall apply to every town-planning scheme relating to land situated within the area of jurisdiction of a local authority which is not an authorised local authority.
- (2) For the purposes of this Part—
 - (a) "local authority" means a local authority which is not an authorised local authority;
 - (b) "area of jurisdiction" includes any specified land contemplated in section 18(1).

28. Local authority to give notice that draft scheme has been prepared

- (1) After a local authority has prepared a draft town-planning scheme, hereinafter referred to as a draft scheme—
 - (a) it shall forthwith publish once a week for 2 consecutive weeks a notice in such form and such manner as may be prescribed;
 - (b) it shall give notice to such departments or bodies as may be prescribed, that it has prepared such a scheme.
- (2) Any person may, within a period of 28 days from the date of the first publication of the notice contemplated in subsection (1), lodge an objection with or make representation in writing to the local authority in respect of the draft scheme.

29. Consideration of draft scheme by local authority

- (1) Where objections have been lodged or representations have been made in terms of section 28(2), the local authority shall, subject to the provisions of section 131, hear the objections or representations.
- (2) After the expiry of the period contemplated in section 28(2) and, where applicable, after the hearing contemplated in subsection (1), the local authority shall consider the draft scheme with due regard to every objection lodged and all representations made and adopt the scheme, subject to any amendment it may deem fit, or reject it.
- (3) A draft scheme adopted by a local authority in terms of subsection (2) shall be known as an interim scheme.

30. Procedure after adoption of draft scheme

- (1) A local authority which—
 - (a) has, of its own accord, prepared a town-planning scheme shall submit—
 - (i) its interim scheme;

(ii) a copy of every objection lodged and all representations made in terms of section 28(2); and

(iii) such other documents and information as may be prescribed,

to the Director within a period of 60 days from the date the scheme was adopted in terms of section 29(2), or such further period as the Director may allow, and shall at the same time pay to the Director such fees as may be prescribed;

(b) has been directed by the Administrator to prepare a town-planning scheme shall submit its interim scheme and the copies, documents and information contemplated in paragraph (a)(ii) and (iii) to the Director within such period as the Administrator may determine and shall at the same time pay to the Director such fees as may be prescribed.

(2) Where a local authority fails to comply with the provisions of subsection (1)(a), the town-planning scheme prepared by it shall lapse.

(3) The Director may, upon the written application by a local authority contemplated in subsection (2), within a period of 28 days from the date the town-planning scheme concerned has lapsed and on—

(a) the submission to him of—

(i) the scheme; and

(ii) the copies, documents and information contemplated in subsection (1)(a)(ii) and (iii); and

(b) the payment of the fees contemplated in subsection (1)(a),

condone the failure of the local authority, and thereupon the scheme shall be deemed not to have lapsed.

(4) Where the Director is of the opinion that a correction should be made to an interim scheme submitted to him in terms of this section, he may, after consultation with the local authority, take such steps as he may deem expedient to effect the correction.

31. Effect of interim scheme

(1) A local authority shall not grant any consent, approval or authority which would be in conflict with a provision of its interim scheme.

(2) Where a local authority is of the opinion that the provisions of its interim scheme would be contravened if—

(a) the erection or alteration of or addition to any building is undertaken or proceeded with;

(b) the subdivision of any land is undertaken or proceeded with;

(c) any work is performed, undertaken or proceeded with;

(d) any particular use is made of any land or building,

the local authority may by written notice prohibit such erection, alteration, addition, sub-division, work or use, except where—

(i) the erection, alteration of or addition to a building is undertaken or proceeded with in accordance with an approved building plan;

(ii) the—

(aa) subdivision of land is undertaken or proceeded with;

(bb) work is performed, undertaken or proceeded with;

(cc) land or building is used, in accordance with an approval granted in terms of this Ordinance, any other law or any repealed law.

(3) For the purposes of subsections (1) and (2) "interim scheme" includes an amendment submitted to the Board in terms of section 37(1).

(4) Any person who contravenes or fails to comply with a prohibition imposed in terms of subsection (2) shall be guilty of an offence.

32. Duty of Director and local authority in respect of interim scheme

(1) Where in respect of an interim scheme submitted to the Director in terms of section 30—

(a) no objections have been lodged or no representations have been made in terms of section 28(2) and the Director is of the opinion that an amendment subject to which it was adopted in terms of section 29(2)—

(i) does not infringe the rights of any other person, he shall, subject to the provisions of section 37, submit the interim scheme forthwith to the Administrator together with a report in which he recommends that the scheme be approved or rejected;

(ii) does infringe the rights of any other person, he shall forthwith once a week for 2 consecutive weeks publish a notice in such form and in such manner as may be prescribed in which—

(aa) it is stated that a copy of the interim scheme will lie for inspection at all reasonable times at the office of the Director and of the local authority which prepared it; and

(bb) such further particulars are contained as may be prescribed;

(b) objections have been lodged or representations have been made in terms of section 28(2), the Director shall forthwith once a week for 2 consecutive weeks publish a notice as contemplated in paragraph (a)(ii).

(2) The Director shall inform the local authority beforehand of the date of the first publication of the notice contemplated in subsection (1)(a)(ii) or (b), and from that date

a copy of the interim scheme shall for a period of 28 days lie for inspection at all reasonable times at the office of the Director and of the local authority.

33. Objections or representations in respect of interim scheme

Any person may, within a period of 28 days from the date of the first publication of the notice contemplated in section 32(1)(a)(ii) or (b), lodge an objection with or make representations in writing to the Director in respect of the interim scheme.

34. Submission of interim scheme to Board

After the expiry of the period referred to in section 33, the Director shall submit the interim scheme together with every objection lodged and all representations made in terms of section 28(2) and 33 to the Board.

35. Duty of Board to hear objections or representations

Where objections have been lodged or representations have been made in terms of section 33, the Board shall on receipt of the documents contemplated in section 34, subject to the provisions of section 131, hear the objections or representations, and for purposes of the hearing the Director shall provide the local authority which prepared the interim scheme with a copy of every objection lodged and all representations made.

36. Consideration of interim scheme by Board

- (1) After the provisions of section 34 and, where applicable, sections 35 and 37 have been complied with, the Board shall consider the interim scheme with due regard to every objection lodged and all representations made, and may for that purpose—
 - (a) carry out an inspection or institute any investigation;
 - (b) request any person to furnish such information, as it may deem expedient.
- (2) Having considered an interim scheme in terms of subsection (1) the Board may, after consultation with the local authority which prepared the scheme, amend the scheme as the Board may deem fit.
- (3) After the Board has considered an interim scheme and, where applicable, has amended the scheme—
 - (a) it shall prepare a report in which it recommends that the scheme be approved or rejected;
 - (b) it shall notify the local authority which prepared the scheme, every objector, every person who made representations and every person who made a request in terms of section 37(1)(b) in writing of its recommendation.
- (4) Any person who has been notified in terms of subsection (3)(b) of the recommendation of the Board may, within a period of 28 days from the date of the notice, request the Board in writing to furnish its reasons for the recommendation, and the Board shall furnish such reasons in writing on payment of such fees as may be prescribed.

- (5) Any person to whom reasons have been furnished in terms of subsection (4) may, within a period of 60 days from the date the reasons were furnished to him, forward his reply thereto to the Board.
- (6) After the period contemplated in subsection (4) and, where applicable, the period contemplated in subsection (5) have expired, the Board shall submit the scheme through the Director to the Administrator together with the report contemplated in subsection (3)(a) and, where applicable, the reasons and reply contemplated in subsection (5) and its comments on such reply.

37. Amendment of interim scheme by Board before submission to Administrator

- (1) Before an interim scheme is considered by the Board in terms of section 36(1) the Director may—
 - (a) of his own accord or at the request of the local authority which prepared the scheme, submit to the Board for its consideration a specified amendment of any provision of the scheme;
 - (b) at the written request of an owner of land to which the scheme relates and on payment of such fees as may be prescribed, submit to the Board for its consideration a specified amendment of any provision of the scheme,

if, in the opinion of the Director, the consideration of the amendment is justified, and thereupon the Director shall, if he deems it necessary, publish forthwith once a week for 2 consecutive weeks a notice in such form and such manner as may be prescribed to the effect that an amendment has been submitted to the Board.

- (2) Simultaneously with the first publication of the notice contemplated in subsection (1)—
 - (a) the Director shall provide the local authority contemplated in that subsection with a copy of the amendment, and the Director and the local authority shall cause a copy of the interim scheme and amendment to lie for inspection at all reasonable times at his or its office for a period of 28 days from the date of such first publication;
 - (b) the Director may, in his discretion—
 - (i) direct that—
 - (aa) the local authority contemplated in subsection (1)(a) shall post a notice similar to the notice contemplated in that subsection in a conspicuous place on the notice board of the local authority;
 - (bb) the owner contemplated in subsection (1)(b) shall post a notice in such form as may be prescribed in a conspicuous place on each separate portion of land to which the amendment relates,

and maintain it for a period of at least 14 days from the date of such first publication;

- (ii) give notice in any other manner that an amendment contemplated in subsection (1) has been submitted to the Board.

- (3) Where the Director has issued a directive in terms of subsection (2)(b)(i)(bb), he may require proof to his satisfaction from the owner concerned that a notice was posted and maintained in accordance with the provisions of that subsection.
- (4) Where a notice is published in terms of subsection (1) any person may, within a period of 28 days from the date of the first publication of the notice, lodge an objection with or make representations in writing to the Director in respect of the amendment contemplated in that subsection, and the Director shall on receipt forthwith submit to the Board every objection lodged and all representations made.
- (5) Where objections have been lodged or representations have been made in terms of subsection (4), the Board shall, subject to the provisions of section 131, hear the objections or representations, and for purposes of the hearing the Director shall provide the local authority or owner contemplated in subsection (1) with a copy of every objection lodged and all representations made.
- (6) Where—
 - (a) a notice has been published in terms of subsection (1), the Board shall, after the expiry of the period contemplated in subsection (4) and, where applicable, after the hearing contemplated in subsection (5), consider the amendment with due regard to every objection lodged and all representations made;
 - (b) a notice has not been published in terms of subsection (1), the Board shall consider the amendment forthwith on receipt thereof,and may for that purpose—
 - (i) carry out an inspection or institute any investigation;
 - (ii) request any person to furnish such information, as it may deem expedient.
- (7) Having considered the amendment in terms of subsection (6), the Board shall adopt or reject the amendment and if it adopts the amendment the Board may, after consultation with the local authority or owner contemplated in subsection (1), amend the interim scheme in such manner as the Board may deem fit

38. Decision of Administrator in respect of interim scheme

- (1) On receipt of an interim scheme in terms of section 32(1)(a)(i) or 36(6) the Administrator shall consider the interim scheme and he may—
 - (a) approve the scheme subject to any amendment he may deem fit or reject it;
 - (b) postpone a decision on the scheme, either wholly or in part
- (2) Where the Administrator has approved an interim scheme in terms of subsection (1) subject to an amendment, the Director shall forthwith amend the scheme accordingly.

39. Administrator to give notice of approved scheme

- (1) Where the Administrator has approved an interim scheme in terms of section 38, he shall give notice thereof in the *Provincial Gazette* and state in the notice that a copy of

the approved scheme will lie for inspection at all reasonable times at the office of the Director and of the local authority which prepared it.

- (2) The Director and a local authority contemplated in subsection (1) shall cause a copy of every approved scheme to lie for inspection at his or its office at all reasonable times.

40. Commencement of approved scheme

- (1) An approved scheme shall come into operation on the date of the publication of the notice contemplated in section 39(1), and from that date the local authority shall observe and enforce the provisions thereof.
- (2) Any person who contravenes or fails to comply with a provision of an approved scheme shall be guilty of an offence.

41. Correction of errors or omissions

Where the Administrator is of the opinion that any error or omission in an approved scheme may be corrected without the necessity for preparing and submitting an amendment scheme, he may, by notice in the *Provincial Gazette*, correct the error or omission.

42. Power of local authority where town-planning scheme in operation is contravened

- (1) Where any person in conflict with a provision of a town-planning scheme in operation—
 - (a) undertakes or proceeds with the erection or alteration of or addition to a building or causes it to be undertaken or proceeded with;
 - (b) performs, undertakes or proceeds with any other work or causes it to be performed, undertaken or proceeded with;
 - (c) uses any land or building or causes it to be used, the local authority may direct such person in writing—
 - (i) to discontinue such erection, alteration, addition or other work or such use or cause it to be discontinued;
 - (ii) at his own expense—
 - (aa) to remove such building or other work or cause it to be removed;
 - (bb) to cause such building or other work or such use to comply with the provisions of the scheme,

and the directive shall state the period within which it shall be carried out.

- (2) A local authority shall not approve a building plan for the erection or alteration of or addition to a building which would be in conflict with any provision of a town-planning scheme in operation.
- (3) A local authority may, notwithstanding the provisions of subsection (2), approve a building plan for the erection or alteration of or addition to a building if the use of any

land or building as contemplated in section 43(1) cannot, in the opinion of the local authority, be proceeded with without such erection, alteration or addition.

- (4) The provisions of subsection (1) shall not apply to the erection or alteration of or addition to a building in accordance with an approved building plan.
- (5) Any person who contravenes or fails to comply with a directive issued in terms of subsection (1) shall be guilty of an offence.
- (6) Where any person fails to comply with a directive issued in terms of subsection (1), the local authority may, whether or not a prosecution has been or will be instituted, remove the building or other work or cause the building or other work to comply with the provisions of its town-planning scheme and recover all expenses incurred in connection therewith from such person.

43. Continued use of certain land or buildings

- (1) Where on the date of the coming into operation of an approved scheme any land or building is being used or, within one month immediately prior to that date, was used for a purpose which is not a purpose for which the land concerned has been reserved or zoned in terms of the provisions of the scheme, but which is otherwise lawful and not subject to any prohibition in terms of this Ordinance, the use for that purpose may, subject to the provisions of subsection (2), be continued after that date.
- (2) The right to continue using any land or building by virtue of the provisions of subsection (1) shall, subject to the provisions of subsection (4), (5), (6) and (7)(a)—
 - (a) where the right is not exercised for a continuous period of 15 months, lapse at the expiry of that period;
 - (b) lapse at the expiry of a period of 15 years calculated from the date contemplated in subsection (1),in which case no compensation shall be payable.
- (3) Where on the date of the coming into operation of an approved scheme—
 - (a) a building, erected in accordance with an approved building plan, exists on land to which the scheme relates;
 - (b) the erection of a building in accordance with an approved building plan has commenced on land contemplated in paragraph (a), and the building does not comply with a provision of the scheme, the building shall, subject to the provisions of subsections (4), (5), (6) and (7)(b), for a period of 15 years from that date be deemed to comply with that provision.
- (4) Where a period of 15 years has, in terms of subsection (2)(b) or (3), commenced to run from a particular date in respect of any land or building, no regard shall, for the purposes of those subsections, be had to an approved scheme which comes into operation after that date.
- (5) The local authority may, on the application by the owner of any land or a building contemplated in subsection (1) or (3), extend the period contemplated in subsection (2)(b) or (3) for a further period or periods, not exceeding 15 years in the aggregate, on

such conditions as it may determine: Provided that the application shall be lodged with the local authority prior to or within 3 months from the date of expiry of the first-mentioned period or the extended period, as the case may be.

- (6) Pending the outcome of an application in terms of subsection (5) or an appeal in terms of section 139—
 - (a) a right contemplated in subsection (2) shall not lapse;
 - (b) a building contemplated in subsection (3) shall be deemed to comply with the provisions of the approved scheme contemplated in that subsection.
- (7) Within one year from the date of the coming into operation of an approved scheme—
 - (a) the holder of a right contemplated in subsection (2) may notify the local authority in writing that he is prepared to forfeit that right subject to the payment of compensation;
 - (b) the owner of a building contemplated in subsection (3) may notify the local authority in writing that he is prepared to forfeit any right acquired by virtue of the provisions of that subsection subject to the payment of compensation.
- (8) The local authority shall—
 - (a) on receipt of a notice contemplated in subsection (7) pay to the holder of the right or the owner;
 - (b) on the application by any other person who suffered actual financial loss as a result of a notice in terms of subsection (7)(b), pay to such person, such compensation as may be mutually agreed upon or, failing an agreement, such compensation as may be awarded by a compensation court designated by the Director and thereupon—
 - (i) the holder of the right contemplated in subsection (a), shall forfeit that right;
 - (ii) the provisions of subsection (3) shall no longer apply to the building contemplated therein.
- (9) Where at any proceedings in terms of this Ordinance it is alleged that a right has lapsed in terms of subsection (2)(a), such allegation shall be deemed to be correct until the contrary is proved.

44. Right to compensation

- (1) Subject to the provisions of subsection (3) and (5), any person who—
 - (a) has any interest in land, a building or any right which either directly or indirectly suffers any diminution in value as a result of the operation of a provision of an approved scheme;
 - (b) on the date of the commencement of an approved scheme—

- (i) is the lessee in terms of a registered lease or the owner of land to which the scheme relates and which is situated within a township which existed on the date notice was given in terms of section 28(1); and
- (ii) is prohibited in terms of a provision of the scheme to use the land contemplated in subparagraph (i) for any lawful purpose, where—
 - (aa) the use is authorised by an express provision in the conditions of title incorporated in his title deed prior to that date;
 - (bb) the use is not prohibited by the conditions of title in his title deed, but is expressly prohibited in the conditions of title generally applicable to the land in the township contemplated in subparagraph (i);
 - (cc) the township owner has, prior to that date, consented in writing to the use in terms of an express reservation in his title deed and payment has been made specifically for such consent prior to that date;
 - (dd) a statutory body has, prior to that date, consented in writing to the use in terms of an express reservation in its title deed,

shall be entitled to compensation.

- (2) Any person who is entitled to compensation in terms of subsection (1) may, within a period of 6 months from the date of the commencement of the approved scheme—
 - (a) in the case where the scheme is an amendment scheme resulting from an application in terms of section 45(1), lodge a claim for compensation with the owner of the land;
 - (b) in any other case, lodge a claim for compensation with the local authority.
- (3) No compensation may be claimed in terms of this section after the expiry of the period contemplated in subsection (2).
- (4) A local authority or owner contemplated in subsection (2) shall on receipt of a claim for compensation pay such compensation as may be mutually agreed upon or, failing an agreement, such compensation as may be awarded by a compensation court designated by the Director.
- (5) No compensation shall be payable in terms of this section in respect of—
 - (a) the operation of a provision in an approved scheme, if the provision could have been made and enforced by a local authority in terms of any other law without incurring any liability for the payment of compensation;
 - (b)
 - (i) any building erected or the alteration of or addition to any building or any other work performed, undertaken or proceeded with;
 - (ii) any contract entered into;
 - (iii) any other thing done,

in conflict with a prohibition imposed or directive issued in terms of section 24(1), 31(2) or 42(1).

45. Application by owner of land for amendment of town-planning scheme

- (1) An owner of land who wishes to have a provision of a town-planning scheme relating to his land amended may, in such manner as may be prescribed, apply in writing to the local authority, and at the same time—
 - (a) he shall pay to the local authority such fees as may be prescribed;
 - (b) he shall submit a copy of the application to the Director together with such fees as may be prescribed; and
 - (c) he shall give notice of the application—
 - (i) by publishing once a week for 2 consecutive weeks a notice in such form and such manner as may be prescribed;
 - (ii) by posting a notice in such form as may be prescribed in a conspicuous place on his land, and he shall maintain such notice for a period of at least 14 days from the date of the first publication of the notice contemplated in subparagraph (i): Provided that the local authority may, in its discretion, grant exemption from compliance with the provisions of this subparagraph.
- (2) A local authority may, in its discretion, give further notice of the application—
 - (a) by posting a notice in such form as may be prescribed in a conspicuous place on its notice board, and in such a case it shall maintain such notice for a period of at least 14 days from the date of the first publication of the notice contemplated in subsection (1)(c)(i);
 - (b) in any other manner.
- (3) The applicant shall submit proof to the satisfaction of the local authority that he has complied with the provisions of subsection (1).
- (4) On receipt of an application in terms of subsection (1) the local authority shall, subject to the provisions of subsection (5), forward—
 - (a) a copy thereof to—
 - (i) the Transvaal Roads Department, where the land concerned or any portion thereof is situated outside an "urban area" as defined in section 1 of the Advertising on Roads and Ribbon Development Act, 1940 (Act 21 of 1940);
 - (ii) the National Transport Commission, where the land concerned or any portion thereof is situated within a "building restriction area" as defined in section 1 of the National Roads Act, 1971 (Act 54 of 1971);
 - (iii) the Director-General: Constitutional Development and Planning, where the application contemplates either the subdivision of land zoned for industrial purposes or the zoning of land for industrial purposes;

- (iv) every local authority or body providing any engineering service contemplated in Chapter V to the land concerned or to the local authority contemplated in subsection (1); and
 - (v) any other department or division of the Transvaal Provincial Administration, any other State department which or any other person who, in the opinion of the local authority, may be interested in the application; and
 - (b) a copy of every objection lodged and all representations made in respect of the application to the applicant, and the applicant shall, within a period of 28 days from the date of receipt of the copy, forward his reply thereto to the local authority.
- (5) An applicant may, in the stead of the local authority and with its consent, forward a copy of the application to any person or body contemplated in subsection (4)(a) and shall submit proof to the satisfaction of the local authority that he has done so.
- (6) Every person or body to whom or which a copy of the application has been forwarded in terms of subsection (4)(a) or (5) may, within a period of 60 days from the date on which the copy was forwarded to him or it, or such further period as the local authority may allow, comment in writing thereon.
- (7) The local authority shall, within a period of 60 days from the date of the expiry of the period or periods contemplated in subsection (6), consider the application with due regard to every objection lodged, all representations made and every reply contemplated in subsection (4)(b) and the comments contemplated in subsection (6), and may for that purpose—
- (a) carry out an inspection or institute any investigation;
 - (b) request any person to furnish such information, as it may deem expedient.
- (8) Having considered the application in terms of subsection (7) the local authority shall submit the application forthwith to the Director together with—
- (a) every objection, all representations and every reply contemplated in subsection (4)(b);
 - (b) the comments contemplated in subsection (6);
 - (c) the information contemplated in subsection (7)(b);
 - (d) its comments and recommendation and, if it does not recommend the application or recommends that it be approved subject to an amendment, its reasons for the recommendation;
 - (e) such documents, maps or information as may be prescribed, as annexures thereto.
- (9) Where the local authority does not recommend the application or recommends that it be approved subject to an amendment, it shall notify the applicant of the recommendation and its reasons therefore, and the applicant may, within a period of 60 days from the date he has so been notified, forward his reply thereto to the Director.

- (10) The Director shall submit the application together with the annexures contemplated in subsection (8) and the reply contemplated in subsection (9)—
- (a) to the Board, where—
 - (i) any objection was lodged or representations were made in respect of the application;
 - (ii) the local authority—
 - (aa) does not recommend the application; or
 - (bb) recommends that the application be approved subject to an amendment which is not acceptable to the applicant;
 - (iii) the Director is of the opinion that it should be submitted to the Board;
 - (b) to the Administrator in any other case.
- (11) Where the application is submitted to the Board in terms of subsection (10)(a), the Board shall, subject to the provisions of section 131, hear the objections lodged or representations made in respect of the application.
- (12) After the provisions of subsection (11) have been complied with, the Board shall consider the application with due regard to every objection lodged and all representations made, and may for that purpose—
- (a) carry out an inspection or institute any investigation;
 - (b) request any person to furnish such information, as it may deem expedient.
- (13) Having considered the application in terms of subsection (12) the Board may, after consultation with the applicant and the local authority, amend the documents or maps contemplated in subsection (8)(e) as the Board may deem fit.
- (14) After the provisions of subsections (12) and (13) have been complied with—
- (a) the Board shall prepare a report in which it recommends that—
 - (i) the application be approved or refused;
 - (ii) a decision on the application be postponed, either wholly or in part;
 - (b) the Board shall notify the applicant every objector and every person who has made representations and the local authority in writing of its recommendation.
- (15) Any person who has been notified in terms of subsection (14)(b) of the recommendation of the Board may, within a period of 28 days from the date of the notice, request the Board in writing to furnish its reasons for the recommendation, and the Board shall furnish such reasons in writing on payment of such fees as may be prescribed.
- (16) Any person to whom reasons have been furnished in terms of subsection (15) may, within a period of 60 days from the date the reasons were furnished to him, forward his reply thereto to the Board.

- (17) After the period contemplated in subsection (15) and, where applicable, the period contemplated in subsection (16) have expired, the Board shall submit the application through the Director to the Administrator together with the report contemplated in subsection (14)(a) and, where applicable, the reasons and reply contemplated in subsection (16) and its comments on such reply.
- (18) On receipt of an application in terms of subsection (10)(b) or (17) the Administrator shall consider the application and he may—
 - (a) approve the application subject to any amendment he may deem fit or refuse it;
 - (b) postpone a decision on the application, either wholly or in part.
- (19) Where the Administrator approves an application in terms of subsection (18) subject to an amendment, the Director shall forthwith give effect to the amendment.
- (20) Where the Administrator has approved an application in terms of subsection (18), he shall give notice thereof in the *Provincial Gazette* and state in the notice that a copy of the application as approved will lie for inspection at all reasonable times at the office of the Director and of the local authority, and thereupon the application as approved shall be deemed to be an approved scheme which is an amendment scheme.
- (21) An approved scheme as contemplated in subsection (20) shall come into operation on the date of the publication of the notice contemplated in that subsection.

46. Prohibition of further amendment scheme in certain circumstances

- (1) Where the Administrator has approved an interim scheme in terms of section 38(1) which is an amendment scheme or an application for the amendment of a town-planning scheme in terms of section 45(18)(a)—
 - (a) the local authority shall not in respect of the land to which the amendment scheme or application relates prepare a further amendment scheme;
 - (b) no person shall in respect of the land to which the amendment scheme or application relates, apply for a further amendment of the town-planning scheme in terms of section 45(1),

within a period of 2 years from the date of the approval of the scheme or the application.
- (2) Notwithstanding the provisions of subsection (1), the Director may, if he is of the opinion that circumstances have changed to such an extent that the consideration of a further amendment scheme is justified, on written application authorise the preparation of a further amendment scheme by a local authority or an application in terms of section 45(1) for a further amendment, as the case may be.
- (3) Within a period of 28 days from the date of receipt of an application in terms of subsection (2) the Director shall consider the application and notify the applicant of his decision.
- (4) Any person who is aggrieved by a decision of the Director in terms of subsection (3) may, within a period of 28 days from the date he was notified in terms of that

subsection of the decision, appeal in writing to the Administrator whose decision shall be final.

- (5) The Director shall notify any person who has appealed in terms of subsection (4) forthwith of the decision of the Administrator.

47. Avoidance or reduction of compensation

- (1) Where any person is, in terms of subsection (1) of section 44, entitled to compensation—

(a) an owner or local authority contemplated in subsection (2) of that section who or which wishes to avoid the payment of compensation may, at any time, but not later than 60 days after the date the compensation becomes payable, request the Administrator through the Director to repeal the provision which gave rise to the right to compensation;

(b) a local authority contemplated in subsection (2) of that section which—

(i) wishes to avoid the payment of compensation may, in lieu of a request contemplated in paragraph (a);

(ii) wishes to reduce the amount of the compensation,

may, notwithstanding the provisions of section 46(1), within the period contemplated in that paragraph and in accordance with the provisions of this Chapter, prepare an amendment of the approved scheme any provision of which gave rise to the right to compensation and publish a notice as contemplated in section 28(1),

and thereupon the owner or local authority who or which has so requested or the local authority which has published such a notice shall notify the person entitled to compensation accordingly.

- (2) On receipt of a request in terms of subsection (1)(a) the Administrator shall, after consultation with the Board and the local authority, grant the request or refuse it: Provided that he shall not grant the request if any other person will be injuriously affected by the repeal of the provision contemplated in that subsection.

- (3) Where the Administrator has granted a request in terms of subsection (2), he shall give notice thereof in the *Provincial Gazette*, and from the date of the notice—

(a) the right contemplated in section 44(1) shall lapse;

(b) an award in terms of section 44(4) shall lapse, except in so far as it relates to costs.

- (4) Where a local authority has prepared an amendment scheme in terms of subsection (1)(b) and the Administrator has given notice in terms of section 39(1) that he has approved the scheme—

(a) the right contemplated in section 44(1) shall lapse to the extent the scheme affects that right;

- (b) an award in terms of section 44(4) shall lapse to the extent the scheme affects that award, except in so far as the award relates to costs.
- (5) Where a right or an award contemplated in subsection (4) lapses to the extent contemplated in that subsection, it shall so lapse from the date of the notice contemplated in section 39(1), and where a dispute arises as to whether or to what extent the right or the award has been affected by the amendment scheme contemplated in that subsection, the dispute shall be settled by a compensation court designated by the Director.

48. Contribution in respect of engineering services, open spaces or parks

- (1) Where an amendment scheme which is an approved scheme came into operation in terms of section 40(1) or 45(21), the local authority may, within a period of 30 days from the date of the commencement of the scheme, by registered letter direct the owner of land to which the scheme relates to pay a contribution to it in respect of the provision of—
 - (a) the engineering services contemplated in Chapter V where it will be necessary to enhance or improve such services as a result of the commencement of the amendment scheme;
 - (b) open spaces or parks where the commencement of the amendment scheme will bring about a higher residential density,and it shall state in that letter—
 - (i) the amount of the contribution;
 - (ii) particulars of the manner in which the amount of the contribution was determined; and
 - (iii) the purpose for which the contribution is required: Provided that—
 - (aa) the amount of the contribution required in respect of open spaces or parks, where applicable, shall be determined by the local authority in the manner prescribed;
 - (bb) in calculating the contribution an amount paid, payable or becoming payable in terms of section 20(2)(c) shall be taken into account.
- (2) An owner who—
 - (a) wishes to avoid the payment of a contribution contemplated in subsection (1) may request the Administrator through the Director to repeal the amendment scheme concerned;
 - (b) wishes to avoid payment of or wishes to reduce the amount of a contribution contemplated in subsection (1) may, notwithstanding the provisions of section 46(1), apply in terms of section 45(1) for the further amendment of the town-planning scheme concerned,

within a period of 60 days from the date of the letter contemplated in that subsection or, where he has appealed in terms of section 124 or 139, from the date he was notified of the decisions of the Services Appeal Board of the Board.

- (3) On receipt of a request in terms of subsection (2)(a) the Administrator shall, after consultation with the Board and the local authority, grant the request or refuse it, and where the request is granted by him, he shall give notice thereof in the *Provincial Gazette*.
- (4) Where the Administrator has given notice in terms of subsection (3) or section 47(3) that he has granted a request contemplated in that subsection or section, the obligation to pay any contribution contemplated in subsection (1) shall lapse from the date of such notice and any contribution already paid shall be refunded.
- (5) Where the Administrator—
 - (a) has given notice in terms of section 45(20) that he has approved an application contemplated in subsection (2)(b);
 - (b) has given notice in terms of section 39(1) that he has approved an amendment scheme prepared by a local authority in terms of section 47(1)(b),

the obligation to pay any contribution contemplated in subsection (1) shall lapse from the date of such notice and any contribution already paid shall be refunded, and thereupon the provisions of subsection (1) shall apply in respect of the new amendment scheme.

- (6) Subject to the provisions of subsection (7) and (8), a contribution contemplated in subsection (1) payable in respect of any particular land shall be paid to the local authority before—
 - (a) a written statement contemplated in section 50(1) of the Local Government Ordinance, 1939, is furnished in respect of the land;
 - (b) a building plan is approved in respect of—
 - (i) the proposed alteration of or addition to an existing building on the land;
 - (ii) the erection of a new building on the land,

where that building plan, were it not for the commencement of the amendment scheme contemplated in subsection (1), would have been conflict with the town-planning scheme in operation;

- (c) the land is used in a manner or for a purpose which, were it not for the commencement of the amendment scheme contemplated in subsection (1), would have been in conflict with the town-planning scheme in operation.
- (7) Where an amendment scheme which gave rise to a contribution contemplated in subsection (1) has been prepared by a local authority and a prospective transferee of the land in respect of which the contribution is payable furnishes an undertaking to the local authority, which is to the satisfaction of the local authority, to pay the contribution should he exercise any new right conferred in respect of the land by the scheme—

- (a) the statement contemplated in subsection (6)(a) shall, where such land is acquired by the transferee as a beneficiary in a deceased estate;
 - (b) the statement contemplated in subsection (6)(a) may, in any other case, be furnished before the contribution is paid.
- (8) A local authority contemplated in subsection (1) may—
 - (a) in the circumstances contemplated in subsection (6)(b) or (c), allow payment of the contribution contemplated in the first-mentioned subsection in instalments over a period not exceeding 3 years;
 - (b) in any case, allow payment of the contribution contemplated in the first-mentioned subsection to be postponed for a period not exceeding 3 years where security for the payment is given to its satisfaction;
 - (c) in exercising the power conferred by paragraph (a) or (b), impose any condition, including a condition for the payment of interest.

49. Power of local authority to promote fulfilment of purposes of town-planning scheme in operation

- (1) A local authority may, in order to promote the fulfilment of the purposes of a town-planning scheme which is in operation within its area of jurisdiction and in addition to other powers conferred upon it by law, adopt a proposal—
 - (a) to acquire land;
 - (b) to erect any building;
 - (c) to let, alienate or dispose of any land or building;
 - (d) to take such other steps as it may deem expedient.
- (2) A proposal contemplated in subsection (1) shall—
 - (a) be submitted by the local authority through the Director to the Administrator in such form;
 - (b) contain such information, as may be prescribed.
- (3) On receipt of a proposal in terms of subsection (2) the Administrator shall, after consultation with any person whom or body which he may deem fit, approve the proposal subject to any condition he may deem expedient or reject it, and notify the local authority accordingly.
- (4) The local authority may, subject to the provisions of the Local Government Ordinance, 1939, where applicable, implement a proposal approved in terms of subsection (3): Provided that the Administrator may, in his discretion, grant exemption from compliance with any provision of that Ordinance.

50. Town-planning Fund

- (1) A local authority in whose area of jurisdiction a town-planning scheme is in operation may establish a fund to be known as a Town-planning Fund.
- (2) A local authority may utilise its Town-planning Fund for defraying any expenditure in connection with a town-planning scheme contemplated in subsection (1), including any compensation payable in terms of the provisions of this Ordinance and any expenditure arising from a proposal contemplated in section 49(1).
- (3) Moneys in a Town-planning Fund may be invested by a local authority in its Consolidated Loans Fund established in terms of section 3 of the Municipal Consolidated Loans Fund Ordinance, 1952 (Ordinance 9 of 1952).
- (4) There shall be paid into a Town-planning Fund—
 - (a) such amounts of money as may be—
 - (i) set aside by the local authority from its revenue;
 - (ii) donated for that purpose;
 - (b) revenue from the investment of the moneys of such Fund.

51. Defrayal of expenditure in connection with town-planning scheme

- (1) Subject to the provisions of subsection (2) and section 50(2), any expenditure incurred by a local authority in connection with a town-planning scheme, including the payment of any compensation in terms of the provisions of this Ordinance and any expenditure arising from a proposal contemplated in section 49(1), shall be defrayed from—
 - (a) its revenue;
 - (b) a loan raised in terms of section 52 of the Local Government Ordinance, 1939, including a loan raised by the issue of stock as contemplated in subsection (3) of the last-mentioned section.
- (2) Where a local authority intends incurring any expenditure as contemplated in subsection (1) in respect of a particular area, it may in accordance with the provisions of the Local Authorities Rating Ordinance, 1977 (Ordinance 11 of 1977), levy a special rate as contemplated in section 24 of that Ordinance to defray such expenditure.

52. Effect of alteration of boundaries of local authority on town-planning scheme

Where the boundaries of a local authority are so altered that any land to which a town-planning scheme of that local authority relates thereafter falls within the boundaries of another local authority, the town-planning scheme shall remain in force in respect of that land and it shall in so far as it relates to that land be deemed to be a town-planning scheme of such other local authority.

53. Review of town-planning scheme in operation

- (1) A local authority—

- (a) may, of its own accord;
- (b) shall, if directed to do so by the Administrator,

review its town-planning scheme in operation and for that purpose it shall make such surveys and prepare such maps and documents as may be prescribed.

- (2) A local authority which has, in terms of paragraph (b) of subsection (1), been directed to review its town-planning scheme in operation shall submit the surveys, maps and documents contemplated in that subsection through the Director to the Administrator, and the Administrator shall in turn forward the surveys, maps and documents to the Board for consideration.
- (3) After the surveys, maps and documents contemplated in subsection (1) have been considered by the Board it may recommend to the Administrator that the local authority be directed in terms of section 18(1)(b) to prepare an amendment scheme.

PART C
PROVISIONS APPLICABLE TO TOWN-PLANNING SCHEMES RELATING TO LAND
SITUATED WITHIN AREAS OF JURISDICTION OF AUTHORISED LOCAL
AUTHORITIES

54. Application of Part

- (1) The provisions of this Part shall apply to every town-planning scheme relating to land situated within the area of jurisdiction of an authorised local authority.
- (2) For the purposes of this Part "area of jurisdiction" includes any specified land contemplated in section 18(1).

55. Certain provisions to apply *mutatis mutandis*

The provisions of sections 28, 29(1) and (2), 42, 43, 44, 50, 51, 52 and 53 shall apply *mutatis mutandis* to a town-planning scheme contemplated in section 54, and for the purposes of—

- (a) section 44(2)(a) the reference to section 45(1) shall be construed as a reference to section 56(1);
- (b) section 44(5)(b) the reference to section 31(2) shall be deleted;
- (c) section 50(2) the reference to the expenditure arising from a proposal contemplated in section 49(1) shall be construed as a reference to expenditure arising from any power conferred by section 64.

56. Application by owner of land for amendment of town-planning scheme

- (1) An owner of land who wishes to have a provision of a town-planning scheme relating to his land amended may, in such manner as may be prescribed, apply in writing to the authorised local authority, and at the same time—
 - (a) he shall pay to the local authority such fees as may be levied by that local authority; and
 - (b) he shall give notice of the application—

- (i) by publishing once a week for 2 consecutive weeks a notice in such form and such manner as may be prescribed;
 - (ii) by posting a notice in such form as may be prescribed in a conspicuous place on his land, and he shall maintain such notice for a period of at least 14 days from the date of the first publication of the notice contemplated in subparagraph (i): Provided that the local authority may, in its discretion, grant exemption from compliance with the provisions of this subparagraph.
- (2) The authorised local authority may, in its discretion, give farther notice of the application—
 - (a) by posting a notice in such form as may be prescribed in a conspicuous place on its notice board, and in such a case it shall maintain such notice for a period of at least 14 days from the date of the first publication of the notice contemplated in subsection (1)(b)(i);
 - (b) in any other manner.
- (3) The applicant shall submit proof to the satisfaction of the authorised local authority that he has complied with the provisions of subsection (1).
- (4) On receipt of an application in terms of subsection (1) the authorised local authority shall, subject to the provisions of subsection (5), forwards—
 - (a) a copy thereof to—
 - (i) the Transvaal Roads Department, where the land concerned or any portion thereof is situated outside an "urban area" as defined in section 1 of the Advertising on Roads and Ribbon Development Act, 1940;
 - (ii) the National Transport Commission, where the land concerned or any portion thereof is situated within a "building restriction area" as defined in section 1 of the National Roads Act, 1971;
 - (iii) the Director-General: Constitutional Development and Planning, where the application contemplates either the subdivision of land zoned for industrial purposes or the zoning of land for industrial purposes;
 - (iv) every local authority or body providing any engineering service contemplated in Chapter V to the land concerned or to the local authority contemplated in subsection (1); and
 - (v) any other department or division of the Transvaal Provincial Administration, any other State department which or any other person who, in the opinion of the local authority, may be interested in the application; and
 - (b) a copy of every objection lodged and all representations made in respect of the application to the applicant, and the applicant shall, within a period of 28 days from the date of receipt of the copy, forward his reply thereto to the local authority.

- (5) An applicant may, in the stead of the authorised local authority and with its consent, forward a copy of the application to any person or body contemplated in subsection (4)(a) and submit proof to the satisfaction of the local authority that he has done so.
- (6) Every person to whom or body to which a copy of the application has been forwarded in terms of subsection (4)(a) or (5) may, within a period of 60 days from the date on which the copy was forwarded to him or it, or such further period as the authorised local authority may allow, comment in writing thereon.
- (7) Where objections have been lodged or representations have been made in respect of the application, the authorised local authority shall, subject to the provisions of section 131, hear the objections or representations.
- (8) After the provisions of subsection (7) have been complied with, the authorised local authority shall consider the application with due regard to every objection lodged and all representations made, and may for that purpose—
 - (a) carry out an inspection or institute any investigation;
 - (b) request any person to furnish such information, as it may deem expedient.
- (9) Having considered the application in terms of subsection (8) the authorised local authority may—
 - (a) approve the application subject to any amendment which it may, after consultation with the applicant, deem fit or refuse it;
 - (b) postpone a decision on the application, either wholly or in part.
- (10) The authorised local authority shall without delay and in writing notify the applicant, an objector or any person who has made representations, of its decision taken by virtue of the provisions of subsection (9).

[Sub-s. (10) inserted by para. 4 of Proc. 1 of 1992]

57. Procedure after adoption of draft scheme or approval of application for amendment of town-planning scheme

- (1) Where an authorised local authority has adopted a draft scheme in terms of section 29(2) or has approved an application for the amendment of a town-planning scheme in terms of sections 56(9)—
 - (a) it shall forthwith give notice thereof the *Provincial Gazette* and state in the notice that a copy of the scheme or the application as approved, as the case may be, will lie for inspection at all reasonable times at its office and the office of the Director, and thereupon—
 - (i) the scheme shall be deemed to be an approved scheme;
 - (ii) the application shall be deemed to be an approved scheme which is an amendment scheme; and

[Sub-para, (ii) amended by para. 5(a) of Proc 1 of 1992]

(b)

[Para, (b) deleted by para. 5(b) of Proc. 1 of 1992]

(c) it shall provide the Director with a copy of the approved scheme.

- (2) The authorised local authority and the Director shall cause a copy of every approved scheme contemplated in subsection (1)(a) to lie for inspection at all reasonable times at his or its office.
- (3) The authorised local authority shall, at the written request of an applicant contemplated in section 56, an objector or any person who has made representations, and on payment of such fees as may be levied by it, in writing furnish the reasons for its decision in respect of a draft scheme in terms of section 29(2) or an application for the amendment of a town-planning scheme in terms of section 56(9).

[Sub-s. (3) inserted by para. 5(c) of Proc. 1 of 1992]

58. Commencement of approved scheme

- (1) An approved scheme contemplated in section 57(1)(a) shall come into operation on a date stated in the notice contemplated in that section, which date—
 - (a) shall, in the case where—
 - (i) objections were lodged or representations made;
 - (ii) the scheme was approved subject to an amendment, be a date not less than 56 days from the date of the publication of the notice;
 - (b) shall, in any other case, be the date of the publication of the notice,and from the date the authorised local authority shall observe and enforce the provisions thereof.
- (2) Any person who contravenes or fails to comply with a provision of an approved scheme contemplated in section 57(1)(a) shall be guilty of an offence.

59. Appeal against certain decisions of authorised local authority

- (1) An applicant or objector who is aggrieved by—
 - (a) a decision of an authorised local authority—
 - (i) in terms of section 29(2) of which notice was given in terms of section 57(1)(a);
 - (ii) in respect of an application contemplated in section 56(1),may within a period of 28 days from the date of the publication of the notice contemplated in section 57(1)(a) or within such further period, not exceeding 28 days, as the Director may allow;
 - (b) the refusal or unreasonable delay of an authorised local authority to give a decision contemplated in paragraph (a) may, at any time,

appeal through the Director to the Administrator by lodging with the Director a notice of appeal setting out the grounds of appeal, and he shall at the same time provide the authorised local authority with a copy of the notice.

- (2) The authorised local authority shall, within a period of 30 days from the date of receipt of a copy of a notice of appeal in terms of subsection (1), submit the following documents to the Director:
 - (a) a copy of—
 - (i) the town-planning scheme or application to which the appeal relates;
 - (ii) every objection lodged and all representations made in respect of the scheme or application contemplated in subparagraph (i);
 - (iii) every reply to an objection or representations contemplated in subparagraph (ii);
 - (b) the record of the proceedings at a hearing contemplated in section 29(1) or 56(7);
 - (c) the reasons for its decision with specific reference to the grounds of appeal.
- (3) Where any person who is aggrieved by—
 - (a) a decision of an authorised local authority in favour of another person, hereinafter referred to as the third person;
 - (b) the refusal or unreasonable delay of an authorised local authority to give a decision in respect of an application,appeals to the Administrator in terms of subsection (1), the Administrator shall afford the third person or the person who has lodged an objection in respect of the application an opportunity to oppose the appeal.
- (4) Any other person than the authorised local authority who is a party to the appeal shall, within a period of 30 days from the date on which he became a party to the appeal, deposit with the Director such amount of money as may be prescribed as security for the payment of the expenses contemplated in subsection (12), and if he fails to so deposit the amount he shall cease to be a party to the appeal.
- (5) After the provisions of subsection (1), (2), (3) and (4) have been complied with, the Director shall refer the appeal to the Board, and the Board shall—
 - (a) determine a day, time and place for the hearing by it of the appeal; and
 - (b) not less than 14 days prior to the day determined in terms of paragraph (a), notify every party to the appeal, including the authorised local authority, of the day, time and place so determined.
- (6) At a hearing contemplated in subsection (5)—
 - (a) the authorised local authority may state its case and adduce evidence in support thereof;

- (b) any other party to the appeal may state his case and adduce evidence in support thereof or authorise any other person to do so on his behalf.
- (7) After a hearing contemplated in subsection (5)—
- (a) the Board shall prepare a report in which it recommends that the appeal be upheld or dismissed;
- (b) the Board shall notify every party to the appeal in writing of its recommendation.
- (8) Every party to the appeal may, within a period of 28 days from the date he has, in terms of subsection (14)(b), been notified of the recommendation of the Board, request the Board in writing to furnish its reasons for the recommendation, and the Board shall furnish such reasons in writing on payment of such fees as may be prescribed.
- (9) Any person to whom reasons have been furnished in terms of subsection (8) may, within a period of 60 days from the date the reasons were furnished to him, forward his reply thereto to the Board.
- (10) After the period contemplated in sub-section (8) and, where applicable, the period contemplated in subsection (9) have expired, the Board shall submit the documents contemplated in subsection (2) through the Director to the Administrator together with the report contemplated in subsection (7)(a) and, where applicable, the reasons and reply contemplated in subsection (9) and its comments on such reply.
- (11) On receipt of the documents contemplated in subsection (10) the Administrator shall consider the appeal and uphold it subject to any condition he may deem expedient, including a condition providing for the amendment of the scheme or application concerned, or dismiss it, and thereupon the Director shall notify every party to the appeal in writing of the decision of the Administrator.
- (12) The Administrator shall direct one or more of the parties to the appeal to pay all the expenses incurred by or on behalf of the Transvaal Provincial Administration in connection with the appeal on such terms and conditions as he may determine.
- (13) When the Administrator upholds or dismisses an appeal in terms of subsection (11), he may make such order with regard to costs as he may deem just, and where he makes such an order he shall, in his discretion, determine the amount of the costs.
- (14) Where any person contemplated in subsection (4) fails to comply with a directive in terms of subsection (12), the Director may pay the expenses contemplated in the latter subsection from the amount of money deposited by such person in terms of the first-mentioned subsection, and refund the balance, if any, to him.
- (15) Where an applicant or objector has, in terms of subsection (1)(a)(i), appealed against any provision of a town-planning scheme of which notice was given in terms of section 57(1)(a)—
- (a) and the appeal is upheld—
- (i) the authorised local authority shall amend such provision within a period of 30 days from the date it has been notified in terms of sub-section (11) of the

decision of the Administrator, and it shall forthwith give notice thereof in the *Provincial Gazette*;

(ii) the Administrator shall, where the authorised local authority fails to comply with the provisions of sub-paragraph (i), amend such provision and forthwith give notice thereof in the *Provincial Gazette* and thereupon he may recover the costs from the local authority;

(b) such provision shall not come into operation until such time as the appeal has been considered by the Administrator and, if upheld, notice has been given in terms of paragraph (a).

(16) An amendment of which notice has been given in terms of subsection (15)(a) shall come into operation on the date of the publication of the notice.

(17) Where an applicant has in terms of subsection (1)(a)(ii) or (b) appealed against—

(a) the refusal of an application contemplated in section 56(1);

(b) the refusal or unreasonable delay to give a decision in respect of an application contemplated in section 56(1),

and the application is approved on appeal, whether subject to any condition or not, the provisions of sections 57 and 58 shall apply *mutatis mutandis*.

60. Correction of errors or omissions

Where an authorised local authority is of the opinion that any error or omission in an approved scheme relating to land situated within its area of jurisdiction may be corrected without the necessity for preparing an amendment scheme, it may, by notice in the *Provincial Gazette*, correct such error or omission.

61. Prohibition of further amendment scheme in certain circumstances

(1) Where—

(a) an authorised local authority has adopted an amendment scheme in terms of section 29 (2) or has approved an application for the amendment of a town-planning scheme in terms of section 56 (9);

(b) the Administrator has approved an application for the amendment of a town-planning scheme in terms of section 59(11),

no person shall in respect of the land to which the amendment scheme or application relates, apply for a further amendment of the town-planning scheme in terms of section 56(1) within a period of 2 years from the date of the adoption of the scheme or the approval of the application.

(2) Notwithstanding the provisions of sub-section (1), the local authority contemplated in that subsection may, if it is of the opinion that circumstances have changed to such an extent that the consideration of a further amendment scheme is justified, on written application authorise an application in terms of section 56(1) for a further amendment.

- (3) Within a period of 28 days from the date of the receipt of an application in terms of subsection (2) the local authority shall consider the application and notify the applicant of its decision.
- (4) Any person who is aggrieved by a decision of an authorised local authority in terms of subsection (3) may, within a period of 28 days from the date he was notified in terms of that subsection of the decision, appeal in writing through the Director to the Administrator whose decision shall be final.
- (5) The Director shall notify any person who has appealed in terms of subsection (4) and the authorised local authority forthwith of the decision of the Administrator.

62. Avoidance or reduction of compensation

- (1) Where any person is, in terms of section 44(1), entitled to compensation resulting from an approved scheme relating to land situated within the area of jurisdiction of an authorised local authority—
 - (a) an owner of land contemplated in section 56(1) who wishes to avoid the payment of compensation may, in the case where the scheme is an amendment scheme resulting from an application by such owner in terms of the latter section, at any time, but not later than 60 days after the date the compensation becomes payable, request the authorised local authority to repeal the provision which gave rise to the right to compensation;
 - (b) the authorised local authority may, if it—
 - (i) wishes to avoid the payment of compensation, within the period contemplated in paragraph (a), repeal the provision of the approved scheme which gave rise to the right to compensation: Provided that it shall not repeal such provision in terms of this subparagraph if any person will be injuriously affected by the repeal;
 - (ii) wishes to avoid or reduce the payment of compensation, within the period contemplated in paragraph (a) and in accordance with the provisions of this Chapter, prepare an amendment of the approved scheme and publish a notice as contemplated in section 28(1),

and thereupon the owner who has so requested or, in any other case, the authorised local authority, shall notify the person entitled to compensation accordingly.

- (2) On receipt of a request in terms of subsection (1)(a) the authorised local authority shall grant the request or refuse it: Provided that it shall not grant the request if any other person will be injuriously affected by the repeal of the provision contemplated in that subsection.
- (3) Where the authorised local authority has granted a request in terms of paragraph (a) of subsection (1) or has repealed a provision of an approved scheme in terms of paragraph (b)(i) of that subsection, it shall give notice thereof in the *Provincial Gazette*, and from the date of the notice—
 - (a) the right contemplated in section 44(1) shall lapse;

- (b) an award in terms of section 44(4) shall lapse, except in so far as it relates to costs.
- (4) Where an authorised local authority has prepared an amendment scheme in terms of subsection (1)(b)(ii) and has given notice in terms of section 57(1)(a) that it has adopted the scheme—
 - (a) the right contemplated in section 44(1) shall lapse to the extent the scheme affects that right;
 - (b) an award in terms of section 44(4) shall lapse to the extent the scheme affects that award, except in so far as the award relates to costs.
- (5) Where a right or an award contemplated in subsection (4) lapses to the extent contemplated in that subsection, it shall so lapse from the date of the notice contemplated in section 57(1)(a), and where a dispute arises as to whether or to what extent the right or the award has been affected by the amendment scheme contemplated in that subsection, the dispute shall be settled by a compensation court designated by the Director.

63. Contribution in respect of engineering services, open spaces or parks

- (1) Where an amendment scheme which is an approved scheme came into operation in terms of section 58(1), the authorised local authority may, within a period of 30 days from the date of the commencement of the scheme, by registered letter direct the owner of land to which the scheme relates to pay a contribution to it in respect of the provision of—
 - (a) the engineering services contemplated in Chapter V where it will be necessary to enhance or improve such services as a result of the commencement of the amendment scheme;
 - (b) open spaces or parks where the commencement of the amendment scheme will bring about a higher residential density,and it shall state in that letter—
 - (i) the amount of the contribution;
 - (ii) particulars of the manner in which the amount of the contribution was determined; and
 - (iii) the purpose for which the contribution is required: Provided that—
 - (aa) the amount of the contribution required in respect of open spaces or parks, where applicable, shall be determined by the local authority in the manner prescribed;
 - (bb) in calculating the contribution an amount paid, payable or becoming payable in terms of section 20(2)(c) shall be taken into account.
- (2) An owner who—

- (a) wishes to avoid the payment of a contribution contemplated in subsection (1) may request the local authority contemplated in that subsection to repeal the amendment scheme concerned;
- (b) wishes to avoid payment of or wishes to reduce the amount of a contribution contemplated in subsection (1) may, in terms of section 56(1), apply for the further amendment of the town-planning scheme concerned,

within a period 60 days from the date of the letter contemplated in that subsection or, where he has appealed in terms of section 124 or 139, from the date on which he was notified of the decision of the Services Appeal Board or the Board.

- (3) On receipt of a request in terms of subsection (2)(a) the authorised local authority shall grant the request or refuse it, and where the request is granted by it, it shall give notice thereof in the *Provincial Gazette*.
- (4) Where the authorised local authority has given notice in terms of subsection (3) or section 62(3) that it has granted a request contemplated in that subsection or section or has repealed a provision contemplated in that section, the obligation to pay any contribution contemplated in subsection (1) shall lapse from the date of such notice and any contribution already paid shall be refunded.
- (5) Where the authorised local authority has given notice in terms of section 57(1)(a) that it has approved an application contemplated in subsection (2)(b), the obligation to pay any contribution contemplated in subsection (1) shall lapse from the date of such notice and any contribution already paid shall be refunded, and thereupon the provisions of subsection (1) shall apply in respect of the new amendment scheme.
- (6) The provisions of section 48(6), (7) and (8) shall apply *mutatis mutandis* to the payment of a contribution contemplated in subsection (1).

64. Power of authorised local authority to promote fulfilment of purposes of town-planning scheme in operation

An authorised local authority may, subject to the provisions of the Local Government Ordinance, 1939, where applicable, in order to promote the fulfilment of the purposes of a town-planning scheme which is in operation within its area of jurisdiction and in addition to other powers conferred upon it by law—

- (a) acquire land;
- (b) erect any building;
- (c) let, alienate or dispose of any land or building;
- (d) take such other steps as it may deem expedient:

Provided that the Administrator may, in his discretion, grant exemption from compliance with any provision of that Ordinance.

CHAPTER III
ESTABLISHMENT OF TOWNSHIP BY OWNER OF LAND
[Heading to Chapter III amended by para. 7 of Proc. 1 of 1992]

PART A
GENERAL PROVISIONS

65. Application of Chapter

- (1) The provisions of this Chapter shall apply to every township established by an owner of land.
- (2) For the purposes of this Chapter "owner of land" includes a local authority, in so far as that local authority is the owner of land outside its area of jurisdiction.

[S. 65 substituted by para. 8 of Proc. 1 of 1992]

66. Township to be established in accordance with provisions of Ordinance

- (1) Subject to the provisions of subsections (2), (3) and (4), no person shall establish a township otherwise than in accordance with the provisions of this Ordinance.
- (2) Notwithstanding the provisions of subsection (1), any person may use land for the housing of employees of a mining undertaking, where in respect of such use—
 - (a) a surface right permit has been issued in terms of the Mining Rights Act, 1967;
 - (b) a permit contemplated in section 6(1) of the Physical Planning Act, 1967 (Act 88 of 1967), has been issued for the erection of dwellings.
- (3) The Administrator may, on such terms and conditions as he may determine, exempt—
 - (a) a statutory body;
 - (b) any person engaged in *bona fide* mining operations;
 - (c) an owner or occupier of land the development or layout of which, in the opinion of the Administrator, constitutes or will constitute a holiday resort, public resort or similar resort;
 - (d) a co-operative as defined in section 1(1) of the Co-operatives Act, 1981 (Act 91 of 1981);
 - (e) a welfare organisation registered in terms of section 13 of the National Welfare Act, 1978 (Act 100 of 1978);
 - (f) any person engaged in *bona fide* farming operations and who uses the land on which he is so engaged for the housing of *bona fide* full-time employees in his service and the families of such employees;
 - (g) for such period as he may determine, but not exceeding 5 years, any person who establishes a township for the temporary housing of *bona fide* full-time employees in his service and the families of such employees,

from any provision or all the provisions of this Chapter.

- (4) The Administrator may, if he deems it expedient, extend the period contemplated in subsection (2)(g) for a further period not exceeding 5 years.

67. Prohibition of certain contracts and options

- (1) After an owner of land has taken steps to establish a township on his land, no person shall, subject to the provisions of section 70—

- (a) enter into any contract for the sale, exchange or alienation or disposal in any other manner of an erf in the township;

- (b) grant an option to purchase or otherwise acquire an erf in the township,

until such time as the township is declared an approved township: Provided that the provisions of this subsection shall not be construed as prohibiting any person from purchasing land on which he wishes to establish a township subject to a condition that upon the declaration of the township as an approved township, one or more of the erven therein will be transferred to the seller.

- (2) Any contract entered into in conflict with the provisions of subsection (1) shall be of no force and effect.

- (3) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence.

- (4) For the purposes of subsection (1)—

- (a) "steps" includes steps preceding an application in terms of section 69(1) or 96(1);

- (b) "any contract" includes a contract which is subject to any condition, including a suspensive condition.

PART B

PROVISIONS APPLICABLE TO TOWNSHIPS ESTABLISHED OR TO BE ESTABLISHED WITHIN AREAS OF JURISDICTION OF LOCAL AUTHORITIES WHICH ARE NOT AUTHORISED LOCAL AUTHORITIES

68. Application of Part

- (1) The provisions of this Part shall apply to every township established or to be established within the area of jurisdiction of a local authority which is not an authorised local authority.

- (2) For the purposes of this Part a "local authority" means a local authority which is not an authorised local authority.

69. Procedure to establish township

- (1) An owner of land who wishes to establish a township on his land may, in such form as the Director may determine, apply in writing—

- (a) to the local authority within whose area of jurisdiction the land is situated;

(b) where the land is not situated within the area of jurisdiction of a local authority and the Director is satisfied that steps have been taken to incorporate the land in the area of jurisdiction of a local authority, to the latter local authority,

and if he so applies—

- (i) he shall comply with such requirements and pay to the local authority such fees as may be prescribed;
 - (ii) he shall submit a copy of the application to the Director and pay to the Director such fees as may be prescribed.
- (2) An application contemplated in subsection (1) shall be accompanied by such plans, diagrams or other documents as may be prescribed and the applicant shall furnish such further information as the local authority may require.
- (3) For purposes of an application contemplated in subsection (1) the applicant need not comply with the provisions of any by-law which is in force within the area of jurisdiction of the local authority and which regulates any notice and the submission of any plan in connection with the lay-out of a township.
- (4) Where the land on which the applicant wishes to establish a township or the rights to minerals in respect of such land is subject to a mortgage bond, he shall submit the written consent of the bondholder to the establishment of the township to the local authority.
- (5) Where—
- (a) the rights to minerals in respect of the land on which the applicant wishes to establish a township have been severed from the ownership of the land;
 - (b) the owner of land contemplated in paragraph (a) has, in respect of the land, granted a lease of the rights to minerals or has entered into a prospecting contract, either or both of which is or are registered in terms of the Deeds Registries Act, 1937, or has executed a notarial deed contemplated in section 8 of the Precious Stones Act, 1964 (Act 73 of 1964), or section 19(1) of the Mining Rights Act, 1967, which notarial deed is registered or deemed to be registered,

the applicant shall satisfy the local authority that—

- (i) the holder, usufructuary or lessee of the rights to minerals or the holder of the rights in terms of the prospecting contract or notarial deed—
 - (aa) has consented to the establishment of the township; or
 - (bb) cannot be traced and that the applicant has given notice of the application in such manner as may be prescribed; or

[Sub-para, (bb) amended by para. 9 of Proc. 1 of 1992]

- (ii) the applicant has requested the Administrator in terms of section 4 of the Expropriation of Mineral Rights (Townships) Act, 1969 (Act 96 of 1969), to expropriate the rights to minerals.

- (6) After the provisions of subsections (1) and (2) have been complied with—
- (a) the local authority may, in its discretion, give notice of the application by publishing once a week for 2 consecutive weeks a notice in such form and such manner as may be prescribed;
 - (b) the local authority or the applicant with the consent of the local authority shall forward a copy of the application to—
 - (i) the Transvaal Roads Department;
 - (ii) every local authority whose area of jurisdiction is situated within a distance of 10km from the land in respect of which application has been made;
 - (iii) every local authority or body providing any engineering service contemplated in Chapter V to the land contemplated in subparagraph (ii) or to the local authority contemplated in subsection (1);
 - (iv) any other department or division of the Transvaal Provincial Administration, any State department which or any other person who, in the opinion of the local authority, may be interested in the application,

and every such department, local authority, body, division or person may, within a period of 60 days from the date on which a copy of the application was forwarded to him or it, or such further period as the local authority may allow, comment in writing thereon: Provided that an applicant who has forwarded a copy in terms of this paragraph shall submit proof to the satisfaction of the local authority that he has done so.

- (7) Any person may, within a period of 28 days from the date of the first publication of the notice contemplated in subsection (6)(a); lodge an objection with or make representations in writing to the local authority in respect of the application.
- (8) The local authority shall forward a copy of every objection lodged and all representations and comments made in respect of the application to the applicant.
- (9) The applicant shall, within a period of 28 days from the date of receipt of the copy contemplated in subsection (8), forward his reply thereto to the local authority.
- (10) After the provisions of subsections (4) and (5) have been complied with and the period contemplated in subsection (6)(b) and, where applicable, the periods contemplated in subsections (7) and (9) have expired, the local authority shall consider the application with due regard to every objection lodged and all representations and comments made and every reply contemplated in subsection (9), and may for that purpose—
- (a) carry out an inspection or institute any investigation which it may deem expedient;
 - (b) determine a day, time and place for the hearing of any person or body who or which lodged an objection or made representations or comments and of the applicant, and shall, for that purpose, notify such person or body and the applicant accordingly.

- (11) Any person or body contemplated in paragraph (b) of subsection (10) and the applicant may appear at the inspection, investigation or hearing contemplated in that subsection, state his or its case and adduce evidence in support thereof or authorise any other person to do so on his behalf.
- (12) The local authority may—
- (a) subject to such notice as it may require, allow the applicant to amend the application prior to or during the consideration thereof;
 - (b) request the applicant to amend the application as the local authority may deem fit.
- (13) Having considered the application in terms of subsection (10), the local authority shall submit the application forthwith to the Director together with—
- (a) every objection, all representations and comments contemplated in subsection (8) and every reply contemplated in subsection (9);
 - (b) its comments and recommendation and, if it does not recommend the application or recommends that it be approved subject to an amendment, its reasons for the recommendation;
 - (c) the documents contemplated in subsection (2) and such further information as the Director may require,
- as annexures thereto.
- (14) Where the local authority does not recommend the application or recommends that it be approved subject to an amendment, it shall notify the applicant of such recommendation and its reasons therefor, and the applicant may, within a period of 60 days from the date he was so notified, forward his reply thereto to the Director.
- (15) The Director shall submit the application together with the annexures contemplated in subsection (13) and the reply contemplated in subsection (14)—
- (a) to the Board, where—
 - (i) any objection was lodged or representations were made in respect of the application;
 - (ii) the local authority—
 - (aa) does not recommend the application; or
 - (bb) recommends that the application be approved subject to an amendment not acceptable to the applicant;
 - (iii) the Director is of the opinion that it should be submitted to the Board;
 - (b) to the Administrator in any other case.
- (16) Where the application is submitted to the Board in terms of subsection (15)(a), the Board shall, subject to the provisions of section 131, hear the objections lodged or representations made in respect of the application.

- (17) After the provisions of subsection (16) have been complied with, the Board shall consider the application with due regard to every objection lodged and all representations made, and may for that purpose—
- (a) carry out an inspection or institute any investigation;
 - (b) request any person to furnish such information, as it may deem expedient.
- (18) While the application is pending before the Board the applicant may—
- (a) of his own accord and with the consent of the Board;
 - (b) at the request of the Board,
- amend his application: Provided that where the amendment is, in the opinion of the Board, substantial—
- (i) the Board shall consult with the local authority before the amendment is effected; and
 - (ii) the Director shall, on payment by the applicant of such fees as may be prescribed, give such notice of the amendment as he may deem necessary.
- (19) After the provisions of subsections (17) and (18) have been complied with—
- (a) the Board shall prepare a report in which it recommends that—
 - (i) the application—
 - (aa) be approved, either wholly or in part, subject to any condition the Board may deem advisable for the Administrator to impose, or
 - (bb) be refused;
 - (ii) a decision on the application be postponed, either wholly or in part;
 - (b) the Board shall notify the applicant, every objector, every person who has made representations, every person to whom or body to which a copy of the application was forwarded in terms of subsection (6)(b) and the local authority in writing of its recommendation.
- (20) Any person who has been notified in terms of subsection (19)(b) of the recommendation of the Board may, within a period of 28 days from the date of the notice, request the Board in writing to furnish its reasons for the recommendation, and the Board shall furnish such reasons in writing on payment of such fees as may be prescribed.
- (21) Any person to whom reasons have been furnished in terms of subsection (20) may, within a period of 60 days from the date the reasons were furnished to him, forward his reply thereto to the Board.
- (22) After the period contemplated in subsection (20) and, where applicable, the period contemplated in subsection (21) have expired, the Board shall submit the application through the Director to the Administrator together with the report contemplated in

subsection (19)(a) and, where applicable, the reasons and reply contemplated in subsection (21) and its comments on such reply.

- (23) Notwithstanding anything to the contrary contained in this Ordinance, the Board may recommend that an application be approved subject to any condition which is in conflict with the provisions of any applicable town-planning scheme.

70. Director may consent to certain contracts and options

- (1) After an owner of land has applied in terms of section 69(1) to establish a township, he may apply to the Director for consent to enter into any contract contemplated in section 67(1) or to grant any option contemplated in the latter section, and the Director may—

(a) in the case where the owner applied to establish a residential township, in consultation with the local authority concerned;

(b) in any other case, in his discretion,

consent to the entering into of such contract or the granting of such option subject to any condition the Director may deem expedient, and thereupon the Director shall notify the owner and, where applicable, the local authority in writing thereof and of any condition imposed.

- (2) On receipt of a notice contemplated in subsection (1) the applicant shall, before entering into the contract or granting the option, but within a period of 6 months from the date of the consent, furnish to the local authority a guarantee of such type and for such amount as the local authority may determine and which is otherwise to its satisfaction that he will fulfil his duties in respect of the engineering services contemplated in Chapter V, and if he fails to do so the consent shall lapse.
- (3) A determination by a local authority in terms of subsection (2) shall not be subject to an appeal in terms of section 124.
- (4) Where the Director has, in terms of subsection (1), consented to the entering into of a contract or the granting of an option, the contract or option shall contain a clause stating that the township concerned is not an approved township.
- (5) Where a contract or option contemplated in subsection (4) does not contain the clause contemplated in that subsection, the contract or option shall, at any time before the township is declared an approved township, be voidable at the instance of any party to the contract or option, other than the person who alienates or disposes of the erf or who grants the option.
- (6) Any person who alienates or disposes of an erf and who enters into a contract contemplated in subsection (4) or grants an option contemplated in that subsection which does not contain the clause contemplated therein shall be guilty of an offence.
- (7) For the purposes of subsection (1) "residential township" shall mean a township established principally for residential purposes.

71. Powers of Administrator and duties of Director

- (1) On receipt of an application in terms of section 69(15)(b) or (22) the Administrator shall consider the application and he may approve the application, either wholly or in part, or

refuse it or postpone a decision thereon, either wholly or in part: Provided that where he has been requested in terms of section 69(5)(ii) to expropriate the rights to minerals, he shall not approve the application until such time as—

- (a) the holder, usufructuary or lessee of such rights has consented to the establishment of the township; or

[Para. (a) amended by para. 10 of Proc. 1 of 1992]

- (b) such rights have been expropriated in terms of the Expropriation of Mineral Rights (Townships) Act, 1969.
- (2) Where the Administrator approves an application in terms of subsection (1), he may impose any condition he may deem expedient, whether recommended by the Board or not, including a condition requiring the payment of an endowment in cash or the provision of an endowment in kind or both.
 - (3) Where the Administrator imposes a condition in terms of subsection (2) requiring the payment of an endowment in cash, he shall state the purpose for which the endowment is required, and such endowment shall be paid in a lump sum.
 - (4) After an application has been approved in terms of subsection (1), the Director shall forthwith notify the applicant, the Surveyor-General, the Registrar and the local authority in writing thereof and of any condition imposed in terms of subsection (2).
 - (5) After the applicant has been notified in terms of subsection (4) that his application has been approved, but before the township is declared an approved township, the Administrator may, after consultation with the local authority and the applicant, amend or delete any condition imposed in terms of subsection (2) or add any further condition.

72. Duty to lodge certain documents with Surveyor-General

- (1) An applicant who has been notified in terms of section 71 (4) that his application has been approved shall, within a period of 12 months from the date of such notice, or such farther period as the Director may allow, lodge for approval with the Surveyor-General such plans, diagrams or other documents as the Surveyor-General may require, and if the applicant fails to do so the application shall lapse.
- (2) Where the applicant fails, within a reasonable time after he has lodged the plans, diagrams or other documents contemplated in subsection (1), to comply with any requirement the Surveyor-General may lawfully lay down, the Surveyor-General shall notify the Administrator is satisfied, after hearing the applicant, that the applicant has failed to comply with any such requirement without sound reason, the Director shall notify the applicant that the Administrator is so satisfied, and thereupon the application shall lapse.

73. Division of township

- (1) An applicant who has been notified in terms of section 71(4) that his application has been approved—
 - (a) may, within a period of 4 months from the date of the notice, or such further period as the Director may allow;

(b) shall, if directed to do so by the Administrator, within such period as the Administrator may determine,

apply to the Administrator, in such manner as may be prescribed, for the division of the township into two or more separate townships, and he shall at the same time lodge a copy of the application with the local authority to which application was made for the establishment of the township.

(2) On receipt of an application in terms of subsection (1) the Administrator may—

(a) where the documents contemplated in section 72(1) have not yet been lodged with the Surveyor-General, after consultation with the local authority;

(b) where the documents contemplated in section 72(1) have been lodged with the Surveyor-General, after consultation with the Surveyor-General and the local authority,

consent to the division of the township subject to any condition the Administrator may deem expedient.

(3) Where consent has been granted in terms of subsection (2), the Director shall forthwith notify the local authority and the applicant in writing thereof and of any condition imposed.

(4) The applicant shall, within a period of 3 months from the date of the notice contemplated in subsection (3), or such further period as the Director may allow, submit to the Director such plans, diagrams or other documents and furnish to him such information as he may require in respect of each separate township.

(5) On receipt of the documents or information contemplated in subsection (4) the Director shall forthwith notify the Surveyor-General, the Registrar and the local authority in writing of the consent granted in terms of subsection (2), and such notice shall be accompanied by a copy of the plan of each separate township.

(6) The granting of consent in terms of subsection (2) and the notice contemplated in subsection (3) shall, in respect of each separate township, be deemed to be the approval of an application in terms of section 71(1) and a notice contemplated in section 71(4) respectively.

74. Amendment of documents

After an applicant has been notified in terms of section 71(4) that his application has been approved, the Administrator may—

(a) where the documents contemplated in section 72(1) have not yet been lodged with the Surveyor-General, after consultation with the local authority;

(b) where the documents contemplated in section 72(1) have been lodged with the Surveyor-General, after consultation with the Surveyor-General and the local authority,

consent to the amendment of such documents, unless the amendment is, in his opinion, so material as to constitute a new application for the establishment of a township.

75. Lodging copy of general plan with local authority

- (1) The applicant shall, within a period of 3 months from the date upon which the Surveyor-General has approved the plans and diagrams contemplated in section 72(1), lodge a certified copy or tracing of the general plan of the township with the local authority.
- (2) Where the applicant fails to comply with the provisions of subsection (1), the local authority may obtain a certified copy or tracing contemplated hi subsection (1) from the Surveyor-General and recover the costs from the applicant.

76. Lodging of plans, diagrams and title deeds for endorsement or registration

- (1) The applicant shall lodge with the Registrar the plans and diagrams contemplated in section 72(1) as approved by the Surveyor-General together with the relative title deeds for endorsement or registration, as the case may be: Provided that the Registrar shall not accept such documents for endorsement or registration until such time as he is advised by the Director that the applicant has complied with such conditions as the Administrator may require to be fulfilled before giving notice in terms of section 79 that the township is an approved township.
- (2) The plans, diagrams and title deeds contemplated in subsection (1) shall be lodged within a period of 12 months from the date of the approval of such plans and diagrams, or such further period as the Director may allow.
- (3) If the applicant fails to comply with the provisions of subsection (1) or (2), the application shall lapse.
- (4) Having endorsed or registered the title deeds contemplated in subsection (1), the Registrar shall notify the Director forthwith of such endorsement or registration, and thereafter the Registrar shall not register any further transactions in respect of any land situated in the township until such time as the township is declared an approved township in terms of section 79.

77. Failure to comply with requirements of Administrator, Board or Director

Where the applicant has, for a period of one year from the date he was requested to comply with any requirement of the Administrator, the Board or the Director in respect of an application in terms of section 69(1), failed to do so, the Director may notify the applicant of such failure, and thereupon the application shall lapse.

78. Continuation of application by new owner

- (1) Where the ownership of land in respect of which an application for the establishment of a township has been made, has changed and the new owner of such land notifies the Administrator in writing that he wishes to -continue with the application, the Administrator may, if the application has not lapsed in terms of section 72, 76 or 77, consent to the continuation of the application subject to any condition he may deem expedient.
- (2) An owner who continues with an application in accordance with the provisions of subsection (1) shall, for the purposes of the provisions of this Chapter, be deemed to be the applicant.

79. Notice declaring township an approved township

After the provisions of sections 72, 73, 75 and 76 have been complied with and the Administrator is satisfied that the township is situated within the area of jurisdiction of a local authority, he shall, by notice in the *Provincial Gazette*, declare the township an approved township, and he shall, in a schedule to such notice, set out the conditions on which the township is declared an approved township.

80. Correction of errors or omissions

The Administrator may, by notice in the *Provincial Gazette*, correct any error or omission in a notice or schedule contemplated in section 79.

81. Transfer of land and payment of endowment to State or local authority

Where a township owner is required to—

- (a) transfer land to the State or a local authority;
- (b) pay an endowment in cash to the State or a local authority in a lump sum,

by virtue of a condition set out in the schedule contemplated in section 79, the land shall be so transferred at the expense of the applicant or the endowment shall be so paid, as the case may be, within a period of 6 months from the date of publication of the notice contemplated in that section, or within such further period as the Administrator may allow.

82. Prohibition of registration of certain deeds of transfer

- (1) Subject to the provisions of subsection (2), the Registrar shall not register a deed of transfer by which the ownership of an erf in a township—
 - (a) is transferred before the township has been declared an approved township in terms of section 79;
 - (b) which has been declared an approved township in terms of section 79, is transferred by the township owner—
 - (i) if the Director has notified the Registrar in writing that any condition set out in the schedule contemplated in section 79, other than a condition requiring the transfer of land or the payment of an endowment in cash to the State or a local authority, has not been complied with;
 - (ii) until such time as—
 - (aa) the provisions of section 81 in respect of the transfer of land to the State or a local authority have been complied with, where any condition set out in the schedule contemplated in section 79 requires such transfer;
 - (bb) the Director or the local authority has notified the Registrar in writing that the provisions of section 81 in respect of the payment of an endowment in cash to the State or a local authority have been complied with, where any condition set out in the schedule contemplated in section 79 requires such payment;

(cc) the local authority within whose area of jurisdiction the township is situated has certified that it will, within a period of 3 months from the date of the certificate, be able to provide the erf with such services as it may deem necessary and that it is prepared to consider an application for the approval of a building plan in respect of the erf.

(2) The provisions of—

(a) subsection (1)(b)(i) shall not apply to the transfer of an erf, if the Director has authorised the Registrar in writing to register the deed of transfer concerned;

(b) subsection (1)(b)(ii)(bb) shall not apply to the transfer of an erf to the State or a local authority by virtue of a condition set out in the schedule contemplated in section 79;

(c) subsection (1)(b)(ii)(cc) shall not apply to—

(i) the transfer of an erf in a township for the establishment of which application has been made in terms of a repealed law and the registration of the deed of transfer would not have been in conflict with the provisions of that law;

(ii) the transfer of an erf contemplated in paragraph (b).

83. Prohibition of refund of endowment

No endowment contemplated in section 71(3) or any portion thereof shall be refunded to a township owner: Provided that where the general plan of a township is cancelled, either wholly or in part, the Administrator may, on such terms and conditions as he may determine, authorise the refund of an endowment or any portion thereof.

84. Utilisation of endowment

(1) An endowment paid to a local authority for a specific purpose by virtue of a condition imposed in terms of section 71(2) and, if invested, any interest earned thereon, shall only be utilised for that purpose: Provided that the endowment—

(a) may be utilised for any other purpose in respect of the township concerned—

(i) by a local authority referred to in the Sixth Schedule to the Local Government Ordinance, 1939;

(ii) by any other local authority with the prior approval of the Administrator and on such terms and conditions as the Administrator may determine;

(b) may be utilised for any other purpose by any local authority with the prior approval of the Administrator and on such terms and conditions as the Administrator may determine;

(c) may be issued as a repayable advance by a local authority for any purpose on such terms and conditions as the local authority may determine.

(2) An endowment contemplated in subsection (1) may be invested by a local authority—

- (a) in its Consolidated Loans Fund established in terms of section 3 of the Municipal Consolidated Loans Fund Ordinance, 1952;
- (b) in such stocks, funds and securities as its Redemption Fund may be invested in terms of section 33 of the Johannesburg Municipality Borrowing Powers Ordinance, 1903 (Ordinance 3 of 1903);
- (c) with a body or institution approved by the Administrator.

85. Endowment held in trust for future local authority

- (1) Where an endowment has been paid to the Administrator in trust for a future local authority in terms of a repealed law relating to townships, the Administrator shall, as soon as possible after the establishment of the local authority, pay the endowment to it without interest after deducting any amount expended in terms of subsection (2).
- (2) Pending the establishment of a local authority contemplated in subsection (1), the Administrator may utilise the whole or any portion of the endowment paid in trust for the local authority for any purpose in respect of the township concerned which he may deem expedient.

86. Land held in trust for future local authority

- (1) Where any land in a township has been transferred to the State President in trust for a future local authority, the State President shall, as soon as possible after the establishment of the local authority, transfer the land to it.
- (2) Pending the establishment of a local authority contemplated in subsection (1)—
 - (a) the Administrator may direct that any land contemplated in subsection (1) or any portion thereof may be used for the benefit of the inhabitants of the township concerned on such terms and conditions as he may deem expedient;
 - (b) the State President may, on the recommendation of the Administrator, sell or donate the land contemplated in subsection (1) or any portion thereof or exchange such land or portion for other land.

87. Condition in conflict with by-law

Where any condition set out in the schedule contemplated in section 79 is in conflict with a by-law of a local authority, the condition shall have precedence.

88. Extension of boundaries of approved township

- (1) An owner of land contemplated in section 49 of the Deeds Registries Act, 1937, who wishes to have the boundaries of an approved township extended to include his land as contemplated in that section may, in such form as the Director may determine, apply in writing through the local authority within whose area of jurisdiction the township is situated, to the Administrator for his approval, and the applicant shall—
 - (a) comply with such requirements as may be prescribed;
 - (b) submit a copy of the application to the Director;

- (c) pay to the Director and the local authority such fees as may be prescribed.
- (2) The provisions of section 69, excluding subsection (1), and section 71(1) shall apply *mutatis mutandis* to an application contemplated in subsection (1), and for the purposes of—
- (a) section 69(4) and (5) and section 71(1)(a) a reference to a consent to the establishment of a township shall be construed as a reference to a consent to extend the boundaries of a township contemplated in subsection (1);

[Para, (a) substituted by para. 11 of Proc. 1 of 1992]
 - (b) section 69(4) and (5) a reference to the land on which an applicant wishes to establish a township shall be construed as a reference to the land contemplated in subsection (1).
- (3) Where the Administrator approves an application contemplated in subsection (1), he may—
- (a) apply all or any of the conditions set out in the schedule contemplated in section 79 on which the township concerned was declared an approved township;
 - (b) (i) impose a condition that the applicant shall pay to the local authority an amount of money in respect of the provision of the engineering services contemplated in Chapter V, where it will be necessary to enhance or improve such services as a result of the approval of the application, and such amount of money shall be determined—
 - (aa) by agreement; or
 - (bb) in the absence of agreement, by the Services Appeal Board designated by the Director on the application by either the applicant or the local authority;
 - (ii) impose any condition contemplated in section 71(2), in respect of the land contemplated in that subsection.
- (4) Any condition imposed in terms of subsection (3) shall be set out in a schedule to the proclamation contemplated in section 49 of the Deeds Registries Act, 1937, and shall have the same force of law as a condition contemplated in section 79.

89. Approval of alteration, amendment or cancellation of general plan

- (1) Any person who wishes to have the general plan of an approved township altered, amended or totally or partially cancelled by the Surveyor-General in terms of section 30(2) of the Land Survey Act, 1927, may, subject to the provisions of subsection (17) and in such form as the Director may determine, apply in writing through the Director to the Administrator for his approval, and the applicant shall—
- (a) comply with such requirements and pay such fees as may be prescribed;
 - (b) at the same time lodge a copy of the application with the local authority, if any, within whose area of jurisdiction the township is situated.

- (2) An application contemplated in subsection (1) shall be accompanied by such plans, diagrams or other documents as the Director may determine and the applicant shall furnish such further information as the Director may require.
- (3) After the provisions of subsection (1) and (2) have been complied with, the Director may, in his discretion, give notice of the application by publishing once a week for 2 consecutive weeks a notice in such form and such manner as may be prescribed.
- (4) A local authority with which a copy of an application has been lodged in terms of subsection (1)(b) may, within a period of 60 days from the date on which the copy was so lodged, or such further period as the Director may allow, submit its comments and recommendation in respect of the application to the Director.
- (5) Any person may, within a period of 28 days from the date of the first publication of the notice contemplated in subsection (3), lodge an objection with or make representations in writing to the Director in respect of the application.
- (6) The Director shall forward a copy of every objection lodged, all representations made and the comments and recommendation of the local authority to the applicant, and the applicant shall, within a period of 28 days from the date of receipt of the copy, forward his reply thereto to the Director.
- (7) After—
 - (a) the periods contemplated in subsections (4) and (5), where applicable, have expired; and
 - (b) the provisions of subsection (6) have been complied with,the Director shall submit the application, together with every objection lodged, all representations made, the comments and recommendation of the local authority, his comments and recommendation and the reply contemplated in subsection (6), forthwith—
 - (i) to the Board, where—
 - (aa) any objection was lodged or representations were made in respect of the application;
 - (bb) the local authority does not recommend the application;
 - (cc) the Director is of the opinion that it should be submitted to the Board;
 - (ii) to the Administrator in any other case.
- (8) Where the application is submitted to the Board in terms of subsection (7), the Board shall, subject to the provisions of section 131, hear the objections lodged or representations made in respect of the application.
- (9) After the provisions of subsection (8) have been complied with, the Board shall consider the application with due regard to every objection lodged, all representations made and the comments, recommendations and reply contemplated in subsection (7).
- (10) Having considered the application in terms of subsection (9)—

- (a) the Board shall prepare a report in which it recommends that—
 - (i) the application—
 - (aa) be approved, either wholly or in part, subject to any condition the Board may deem advisable for the Administrator to impose; or
 - (bb) be refused;
 - (ii) a decision on the application be postponed, either wholly or in part;
 - (b) the Board shall notify the applicant, every objector, every person who has made representations and the local authority in writing of its recommendation.
- (11) Any person who has been notified in terms of subsection (10)(b) of the recommendation of the Board may, within a period of 28 days from the date of the notice, request the Board in writing to furnish its reasons for the recommendation, and the Board shall furnish such reasons in writing on payment of such fees as may be prescribed.
- (12) Any person to whom reasons have been furnished in terms of subsection (11) may, within a period of 60 days from the date the reasons were furnished to him forward his reply thereto to the Board.
- (13) After the period contemplated in subsection (11) and, where applicable, the period contemplated in subsection (12) have expired, the Board shall submit the application through the Director to the Administrator together with the report contemplated in subsection (10)(a) and, where applicable, the reasons and reply contemplated in subsection (12) and its comments on such reply.
- (14) On receipt of an application in terms of subsection (7) or (13) the Administrator shall consider the application and he may approve the application, either wholly or in part, or refuse it or postpone a decision thereon, either wholly or in part: Provided that he shall not approve the application unless—
- (a) the applicant has the unencumbered ownership of all the land within the area affected by the alteration, amendment or cancellation of the general plan, other than land—
 - (i) the ownership of which will re-vest in the township owner in terms of section 91(1);
 - (ii) contemplated in section 81(a);
 - (b) where the land contemplated in paragraph (a) is subject to a mortgage bond, the bondholder has consented in writing to the alteration, amendment or cancellation of the general plan.
- (15) Where the Administrator approves the application he may—
- (a) impose any condition he may deem expedient, whether recommended by the Board or not;

- (b) amend or delete any condition set out in the schedule contemplated in section 79 on which the township concerned was declared an approved township.
- (16) The provisions of subsection (11) shall not be so construed as to empower the Administrator to approve the alteration of the name of an approved township.
- (17) The provisions of this section shall not apply to an alteration or amendment of a general plan of an approved township which is necessary to indicate the closing of any public place or street or any portion thereof in terms of section 67 or 68 of the Local Government Ordinance, 1939.

90. Procedure after approval of alteration, amendment or cancellation of general plan

- (1) After the Administrator has approved or refused an application in terms of subsection (14) of section 89, the Director shall forthwith notify the applicant, an objector or any person who has made representations, the Surveyor-General and the local authority, if any, in writing of the decision of the Administrator and he shall, where the application has been approved, state any condition imposed in terms of subsection (15)(a) of that section.
- (2) An applicant who has been notified in terms of subsection (1) that his application has been approved shall, within a period of 12 months from the date of the notice, or such further period as the Director may allow, lodge with the Surveyor-General such plans, diagrams or other documents as the Surveyor-General may deem necessary to effect the alteration, amendment or cancellation of the general plan, and if he fails to do so the application shall lapse.
- (3) Where the applicant fails, within a reasonable time after he has lodged the plans, diagrams or other documents contemplated in subsection (2), to comply with any requirement the Surveyor-General may lawfully lay down, the Surveyor-General shall notify the Administrator accordingly, and where the Administrator is satisfied, after hearing the applicant, that the applicant has failed to comply with any such requirement without sound reason, the Director shall notify the applicant that the Administrator is so satisfied, and thereupon the application shall lapse.
- (4) After the Surveyor-General has, in terms of section 30(2) of the Land Survey Act, 1927, altered or amended the general plan or has totally or partially cancelled it, he shall, through the Director, notify the Administrator thereof.
- (5) On receipt of the notice contemplated in subsection (4) the Administrator shall forthwith publish a notice in the *Provincial Gazette* declaring that the general plan has been altered, amended or totally or partially cancelled and he shall, in a schedule to the latter notice, set out the conditions imposed in terms of section 89(15)(a) or the amendment or deletion of any condition contemplated in section 89(15)(b), where applicable.
- (6) The Director shall forthwith provide the Registrar with a copy of the notice in the *Provincial Gazette* and schedule thereto contemplated in subsection (5).

91. Effect of alteration, amendment or cancellation of general plan

- (1) Where the general plan of an approved township is, in terms of section 30(2) of the Land Survey Act, 1927—

(a) altered or amended which necessitated the closing of any public place or street in terms of section 67 or 68 of the Local Government Ordinance, 1939, the ownership in such place or street or any portion thereof which vests in the local authority in terms of section 63 of that Ordinance, shall *ipso facto* re-vest in the township owner;

(b) cancelled in whole—

(i) the township shall cease to exist as a township;

(ii) the ownership of—

(aa) any public place or street in the township vesting in a local authority in terms of section 63 of the Local Government Ordinance, 1939, or vesting in the State President in trust for a future local authority;

(bb) any land in the township which has been transferred to the State or a local authority in terms of section 81,

shall, subject to the provisions of subsection (2), *ipso facto* re-vest in the township owner;

(c) cancelled in part—

(i) that portion of the township to which the cancellation of the general plan relates shall cease to exist as a portion of the township;

(ii) the ownership of any public place or street or land in the township to which the cancellation of the general plan relates—

(aa) vesting in a local authority or the State President;

(bb) which has been transferred to the State or a local authority,

as contemplated in paragraph (b)(ii), shall, subject to the provisions of subsection (2), *ipso facto* re-vest in the township owner.

(2) Where the State or a local authority has incurred expenditure in respect of land which has been transferred to it in terms of section 81 or is legally bound to incur such expenditure, that land shall not re-vest in the township owner in terms of subsection (1)(b) or (c) until such time as such expenses have been reimbursed or the State or the local authority, as the case may be—

(a) has been indemnified for the expenditure to be incurred; or

(b) has waived any claim in respect of such expenditure.

(3) Where the ownership of any land re-vests in the township owner in terms of subsection (1)—

(a) the land shall, in the case where it is not registered in the name of the township owner, be transferred to him at his expense;

- (b) the Registrar shall, in the case where the land is registered in the name of the township owner, endorse the fact of the re-vesting on the title deed of the township owner and record such re-vesting in his registers.
- (4) Where any public place or street or any portion thereof is closed in terms of section 67 or 68 of the Local Government Ordinance, 1939, and the closing was not necessary to effect an alteration, amendment or total or partial cancellation of the general plan of an approved township as contemplated in subsection (1), the township owner shall, without any claim to compensation, be divested of all rights of ownership in the land comprising such public place, street or portion and such rights shall, notwithstanding anything to the contrary contained in this Ordinance or any other law, vest in the local authority: Provided that the provisions of this subsection shall not affect any right to minerals or other real right held by the township owner in respect of such land.
- (5) Where a township owner is divested of his rights of ownership in any land in terms of subsection (4), he shall on demand hand over to the local authority his title deed in respect of the land.
- (6) Where the Administrator has approved an application for an alteration, amendment or total or partial cancellation of the general plan of an approved township by the Surveyor-General in terms of section 30(2) of the Land Survey Act, 1927, the Administrator may, in order to effect such alteration, amendment or cancellation, direct the local authority to close, in terms of section 67 or 68 of the Local Government Ordinance, 1939, any public place or street or any portion thereof to which the alteration, amendment or cancellation relates.
- (7) A local authority shall close any public place or street or any portion thereof within a period of 60 days from the date upon which it has been directed to do so in terms of sub-section (6).

92. Subdivision or consolidation of erven in approved township

- (1) An owner of—
- (a) an erf in an approved township who wishes to subdivide that erf;
- (b) two or more erven in an approved township who wishes to consolidate those erven,

may apply in writing to the local authority within whose area of jurisdiction the township is situated and at the same time lodge a plan setting out the proposed subdivision or consolidation, and such an application shall be accompanied by such fees as may be prescribed.

- (2) (a) On the receipt of an application in terms of subsection (1) the local authority shall consider the application and it may approve or refuse it, and where the local authority fails to approve or refuse an application to consolidate two or more erven within a period of 60 days from the date of receipt of the application referred to in subsection (1), it shall be deemed that the local authority has approved the application.

[Previous sub-s. (2) renumbered to para, (a) and amended by para. 12 of Proc. 1 of 1992]

- (b) the local authority shall without delay and in writing notify the applicant referred to in paragraph (a) of its decision and in writing furnish, at the written request of such applicant and on payment of the prescribed fees, the reasons for its decision.

[Para. (b) inserted by para. 12 of Proc. 1 of 1992]

- (c) if the local authority fails to approve or refuse an application to consolidate two or more erven within a period of 60 days from the date of the receipt of the application referred to in subsection (1), it shall be deemed that the local authority has approved the application.

[Para. (c) inserted by para. 12 of Proc. 1 of 1992]

- (3) Where a local authority approves an application in terms of subsection (2), it may impose any condition it may deem expedient, including a condition, in the case of an application for a subdivision, that the owner shall pay to it an amount of money in respect of the provision of—

- (a) the engineering services contemplated in Chapter V, where it will be necessary to enhance or improve such services as a result of the proposed subdivision, and such amount shall be determined—

(i) by agreement; or

(ii) in the absence of agreement, by the Services Appeal Board designated by the Director on the application by either the owner or the local authority;

- (b) open spaces or parks, and such amount shall be determined by the local authority in the manner prescribed:

Provided that in calculating the amount a contribution paid, payable or becoming payable in terms of section 48 or 63 shall be taken into account.

- (4) A local authority may, at the request of the owner and after consultation with the Surveyor-General—

- (a) cancel, subject to any condition it may deem expedient, an approval of an application in terms of—

(i) subsection (2);

(ii) section 84 of the Town-planning and Townships Ordinance, 1965, prior to the substitution thereof by section 7 of the Town-planning and Townships Amendment Ordinance, 1982 (Ordinance 19 of 1982);

(iii) section 84A of the Town-planning and Townships Ordinance, 1965, prior to the repeal thereof by section 8 of the Amendment Ordinance referred to in subparagraph (ii);

- (b) amend or delete any condition, other than a condition of title imposed in terms of subsection (3) or any of the provisions referred to in paragraph (a)(ii) or (iii), or add any condition contemplated in that subsection to the existing conditions;

- (c) approve an amendment of the plan setting out a proposed subdivision or consolidation, where the application for such subdivision or consolidation has been approved in terms of any of the provisions referred to in paragraph (a).
- (5) A local authority shall not exercise any power conferred by subsection (2), (3) or (4) if it will bring about a result which is in conflict with—
- (a) any condition set out in the schedule contemplated in section 79 on which the township concerned was declared an approved township;
 - (b) a condition of title imposed in terms of any law;
 - (c) a provision of an interim or approved scheme applicable to the erf or erven concerned.

93. Observance and enforcement of conditions imposed by Administrator

- (1) Where the Administrator has, in terms of the provisions of any law, imposed a condition relating to a township or an erf in a township—
- (a) the local authority within whose area of jurisdiction the township is situated shall observe the condition;
 - (b) the local authority contemplated in paragraph (a) shall refuse to approve any building plan which is in conflict with the condition;
 - (c) the local authority contemplated in paragraph (a) or the Administrator may enforce the condition.
- (2) Any person who contravenes or fails to comply with a condition contemplated in subsection (1) shall be guilty of an offence.

PART C
PROVISIONS APPLICABLE TO TOWNSHIPS ESTABLISHED OR TO BE ESTABLISHED WITHIN AREAS OF JURISDICTION OF AUTHORISED LOCAL AUTHORITIES

94. Application of Part

The provisions of this Part shall apply to every township established or to be established within the area of jurisdiction of an authorised local authority.

95. Certain provisions to apply *mutatis mutandis*

The provisions of sections 72, 75, 78, 80, 81, 82, 83 and 84 sections 87 up to and including 93 shall apply *mutatis mutandis* to a township contemplated in section 94, and for the purposes of—

- (a) sections 72, 78(1), 80, 81 and 82 a reference to the Administrator or Director shall be construed as a reference to the authorised local authority to which application is made in terms of section 96(1) for the establishment of a township;
- (b) section 72(1) the reference to section 71(4) shall be construed as a reference to section 98(4);

- (c) section 78(1) the reference to sections 76 and 77 shall be construed as a reference to sections 101 and 102 respectively;
- (d) sections 80, 81, 82, 87, 88(3)(a) and (4), 89(15)(b) and 92(5)(a) a reference **to** section 79 shall be construed as a reference to section 103;
- (e) section 83 the reference to section 71(3) shall be construed as a reference to section 98(3);
- (f) section 84(1) and 88(3)(b) the reference to section 71(2) shall be construed as a reference to section 98(2);
- (g) section 92(1) the reference to fees which may be prescribed shall be construed as a reference to fees which may be levied by the authorised local authority to which application is made;
- (h) section 93(1) the reference to the Administrator shall also be construed as a reference to the authorised local authority within whose area of jurisdiction the township is situated.

96. Procedure to establish township

- (1) An owner of land who wishes to establish a township on his land may, in such form as the Director may determine, apply in writing—
 - (a) to the authorised local authority within whose area of jurisdiction the land is situated;
 - (b) where the land is not situated within the area of jurisdiction of a local authority and the Director is satisfied that steps have been taken to incorporate the land in the area of jurisdiction of an authorised local authority, to the latter local authority, and if he so applies he shall comply with such requirements as may be prescribed.
- (2) An application contemplated in subsection (1) shall be accompanied by such plans, diagrams or other documents as may be prescribed, and the applicant shall—
 - (a) furnish to the authorised local authority such, further information as it may require;
 - (b) pay to the authorised local authority such fees as it may levy.
- (3) The provisions of subsection (3) up to and including (11) of section 69 shall apply *mutatis mutandis* to an application contemplated in subsection (1).
- (4) While the application is pending before the authorised local authority the applicant may—
 - (a) of his own accord and with the consent of such local authority;
 - (b) at the request of such local authority,

amend his application: Provided that where the amendment is, in the opinion of the local authority, substantial, it shall on payment by the applicant of such fees as it may levy, give such notice of the amendment as it may deem necessary.

97. Authorised local authority may consent to certain contracts and options

- (1) After an owner of land has applied in terms of section 96(1) to establish a township, he may apply to the authorised local authority for consent to enter into any contract contemplated in section 67(1) or to grant any option contemplated in the latter section, and the local authority may consent to the entering into of such contract or the granting of such option subject to any condition it may deem expedient, and thereupon it shall notify the owner in writing thereof and of any condition imposed.
- (2) On receipt of a notice contemplated in subsection (1) the applicant shall, before entering into the contract or granting the option, but within a period of 6 months from the date of the consent, furnish to the local authority a guarantee of such type and for such amount as the local authority may determine and which is otherwise to its satisfaction that he will fulfil his duties in respect of the engineering services contemplated in Chapter V, and if he fails to do so the consent shall lapse.
- (3) A determination by a local authority in terms of subsection (2) shall not be subject to an appeal in terms of section 124.
- (4) Where an authorised local authority has, in terms of subsection (1), consented to the entering into of a contract or the granting of an option, the contract or option shall contain a clause stating that the township concerned is not an approved township.
- (5) Where a contract or option contemplated in subsection (4) does not contain the clause contemplated in that subsection, the contract or option shall, at any time before the township concerned is declared an approved township, be voidable at the instance of any party to the contract or option, other than the person who alienates or disposes of the erf or who grants the option.
- (6) Any person who alienates or disposes of an erf and who enters into a contract contemplated in subsection (4) or grants an option contemplated in that subsection which does not contain the clause contemplated therein shall be guilty of an offence.

98. Decision on application for establishment of township

- (1) After the provisions of section 96 have been complied with, the authorised local authority shall consider the application and it may approve the application, either wholly or in part, or refuse it or postpone a decision thereon, either wholly or in part: Provided that where the Administrator has been requested in terms of section 69(5)(ii) to expropriate the rights to minerals, the local authority shall not approve the application until such time as—
 - (a) the holder, usufructuary or lessee of such rights has consented to the establishment of the township; or

[Para, (a) amended by para. 13 of Proc. 1 of 1992]

- (b) such rights have been expropriated in terms of the Expropriation of Mineral Rights (Townships) Act, 1969.

- (2) Where an authorised local authority approves an application in terms of subsection (1), it may impose any condition it may deem expedient, including a condition requiring the payment of an endowment in cash or the provision of an endowment in kind or both.
- (3) Where an authorised local authority imposes a condition in terms of subsection (2) requiring the payment of an endowment in cash, it shall state the purpose for which the endowment is required, and such endowment shall be paid in a lump sum.
- (4) After an application has been approved in terms of subsection (1), the authorised local authority shall forthwith notify the applicant, every objector, the Surveyor-General and the Registrar in writing thereof and of any condition imposed in terms of subsection (2).
- (5) After the applicant has been notified in terms of subsection (4) that his application has been approved township, the authorised local authority may; after consultation with the applicant, amend or delete any condition imposed in terms of subsection (2) or add any further condition.

99. Division of township

- (1) An applicant who has been notified in terms of section 98(4) that his application has been approved—
 - (a) may within a period of 4 months from the date of the notice, or such further period as the authorised local authority within whose area of jurisdiction the township is situated may allow;
 - (b) shall, if directed to do so by the Administrator or the authorised local authority, within such period as the Administrator or the authorised local authority may determine,

apply to the local authority in such manner as may be prescribed, for the division of the township into two or more separate townships.

- (2) On receipt of an application in terms of subsection (1) the authorised local authority may—
 - (a) where the documents contemplated in section 72(1) have not yet been lodged with the Surveyor-General;
 - (b) where the documents contemplated in section 72(1) have been lodged with the Surveyor-General, after consultation with the Surveyor-General,

consent to the division of the township subject to any condition such local authority may deem expedient.

- (3) Where consent has been granted in terms of subsection (2), the authorised local authority shall forthwith notify the applicant in writing thereof and of any condition imposed.
- (4) The applicant shall, within a period of 3 months from the date of the notice contemplated in subsection (3), or such further period as the authorised local authority may allow, submit to the local authority such plans, diagrams or other documents and furnish to it such information as it may require in respect of each separate township.

- (5) On receipt of the documents or information contemplated in subsection (4) the authorised local authority shall forthwith notify the Surveyor-General and the Registrar in writing of the consent granted in terms of subsection (2), and such notice shall be accompanied by a copy of the plan of each separate township.
- (6) The granting of consent in terms of subsection (2) and the notice contemplated in subsection (3) shall, in respect of each separate township, be deemed to be the approval of an application in terms of section 98(1) and a notice contemplated in section 98(4) respectively.

100. Amendment of documents

After an applicant has been notified in terms of section 98(4) that his application has been approved, the authorised local authority within whose area of jurisdiction the township is situated may—

- (a) where the documents contemplated in section 72(1) have not yet been lodged with the Surveyor-General;
- (b) where the documents contemplated in section 72(1) have been lodged with the Surveyor-General, after consultation with the Surveyor-General,

consent to the amendment of such documents, unless the amendment is, in its opinion, so material as to constitute a new application for the establishment of a township.

101. Lodging of plans, diagrams and title deeds for endorsement or registration

- (1) The applicant shall lodge with the Registrar the plans and diagrams contemplated in section 72(1) as approved by the Surveyor-General together with the relative title deeds for endorsement or registration, as the case may be: Provided that the Registrar shall not accept such documents for endorsement or registration until such time as he is advised by the authorised local authority that the applicant has complied with such conditions as the authorised local authority may require to be fulfilled before giving notice in terms of section 103 that the township is an approved township.
- (2) The plans, diagrams and title deeds contemplated in subsection (1) shall be lodged within a period of 12 months from the date of the approval of such plans and diagrams, or such further period as the authorised local authority may allow.
- (3) If the applicant fails to comply with the provisions of subsection (1) or (2), the applicant shall lapse.
- (4) Having endorsed or registered the title deeds contemplated in subsection (1), the Registrar shall notify the authorised local authority forthwith of such endorsement or registration, and thereafter the Registrar shall not register any further transactions in respect of any land situated in the township until such time as the township is declared an approved township in terms of section 103.

102. Failure to comply with requirements of Administrator or authorised local authority

Where the applicant has, for a period of one year from the date he was requested to comply with any requirement of the Administrator or the authorised local authority in respect of an application in terms of section 96(1), failed to do so, such local authority may notify the applicant of such failure, and thereupon the application shall lapse.

103. Notice declaring township an approved township

- (1) After the provisions of sections 72, 75, 99 and 101 have been complied with and the authorised local authority to which application has been made in terms of section 96 (1) is satisfied that the township is situated within its area of jurisdiction, such local authority shall, by notice in the *Provincial Gazette*, declare the township an approved township and it shall, in a schedule to such notice, set out the conditions on which the township is declared an approved township.
- (2) After an authorised local authority has published a notice as contemplated in subsection (1), it shall forward a copy of—
 - (a) the notice;
 - (b) the schedule to the notice; and
 - (c) the general plan of the township, as approved, forthwith to the Director.

104. Appeal against certain decisions of authorised local authority

- (1) An applicant or objector who is aggrieved by—
 - (a) a decision of an authorised local authority on any application contemplated in section 96(1) or 99(1) may, within a period of 28 days from the date he was notified in writing by the local authority of the decision, or within such further period, not exceeding 28 days, as the Director may allow;
 - (b) the refusal or unreasonable delay of an authorised local authority to give a decision contemplated in paragraph (a) may, at any time,

appeal through the Director to the Administrator by lodging with the Director a notice of appeal setting out the grounds of appeal, and he shall at the same time provide the authorised local authority with a copy of the notice.
- (2) The authorised local authority shall, within a period of 30 days from the date of receipt of a copy of a notice of appeal in terms of subsection (1), submit the following documents to the Director:
 - (a) a copy of—
 - (i) the application to which the appeal relates;
 - (ii) every objection lodged and all representations made in respect of the application contemplated in subparagraph (i);
 - (iii) every reply to an objection or representations contemplated in subparagraph (ii);
 - (b) the record of the proceedings at a hearing of objections lodged or representations made in respect of the application contemplated in paragraph
 - (c) the reasons for its decision with specific reference to the grounds of appeal.

- (3) The provisions of subsection (3) up to and including (14) of section 59 shall apply *mutatis mutandis* to an appeal contemplated in subsection (1).

CHAPTER IV ESTABLISHMENT OF TOWNSHIP BY LOCAL AUTHORITY

105. Definition

For the purposes of this Chapter "relevant authority" in relation to a township established or to be established by—

- (a) a local authority which is not an authorised local authority, means the Administrator;
- (b) an authorised local authority, means that local authority.

106. Certain provisions to apply *mutatis mutandis*

The provisions of sections 80, 87, 88, 89, 90, 91(6) and (7) and 92 shall apply *mutatis mutandis* to a township established by a local authority, and for the purposes of—

- (a) section 80 the reference to the Administrator shall be construed as a reference to the relevant authority;
- (b) sections 80, 87, 88(3)(a) and (4), 89(15)(b) and 92(5)(a) a reference to section 79 shall be construed as a reference to section 111;
- (c) section 88(3)(b) the reference to section 71(2) shall be construed as a reference to section 109(2);
- (d) section 89(14)(a)(ii) the reference to section 81(a) shall be construed as a reference to section 112;
- (e) sections 88(1) and (3)(a), 89(1), (16) and (17), 91(6) and 92(1) a reference to an approved township shall be construed as a reference to a township established by a local authority.

107. Power of local authority to establish township

- (1) A local authority may establish a township on land within its area of jurisdiction of which it is the owner.
- (2) A local authority shall not take any steps to establish a township on land contemplated in subsection (1) where—
 - (a) the rights to minerals in respect of the land have been severed from the ownership of the land;
 - (b) the local authority has, in respect of the land, granted a lease of the rights to minerals or has entered into a prospecting contract, either or both of which is or are registered in terms of the Deeds Registries Act, 1937, or has executed a notarial deed contemplated in section 8 of the Precious Stones Act, 1964, or section 19(1) of the Mining Rights Act, 1967, which notarial deed is registered or deemed to be registered,

unless—

(i) the holder, usufructuary or lessee of the rights to minerals or the holder of the rights in terms of the prospecting contract or notarial deed and, if the rights to minerals are subject to a mortgage bond, the bondholder—

(aa) has consented to the establishment of the township; or

(bb) cannot be traced and the local authority has given notice of its intention to establish the township in such manner as may be prescribed; or

[Sub-para, (bb) amended by para. 14 of Proc. 1 of 1992]

(ii) the local authority has requested the Administrator in terms of section 4 of the Expropriation of Mineral Rights (Townships) Act, 1969, to expropriate the rights to minerals.

108. Procedure to establish township

(1) Whenever a local authority wishes to establish a township on land contemplated in section 107(1)—

(a) it may, in its discretion, give notice of its intention to do so by publishing once a week for 2 consecutive weeks a notice in such form and such manner as may be prescribed;

(b) it shall forward a copy of the plan of such township and any other document it may deem necessary to—

(i) the Transvaal Roads Department;

(ii) every local authority whose area of jurisdiction is situated within a distance of 10 km from the land;

(iii) every local authority or body providing any engineering service contemplated in Chapter V to the land or to the local authority establishing the township;

(iv) any other department or division of the Transvaal Provincial Administration, any State department which or any other person who, in the opinion of the local authority, may be interested in the establishment of the township,

and every such department, local authority, body, division or person may, within a period of 60 days from the date on which a copy of the plan or other document was forwarded to it, or such further period as the local authority concerned may allow, comment in writing in respect of the establishment of the township.

(2) Any person may, within a period of 28 days from the date of the first publication of the notice contemplated in subsection (1)(a), lodge an objection with or make representations in writing to the local authority in respect of the establishment of the township.

- (3) After the period contemplated in subsection (1)(b) and, where applicable, the period contemplated in subsection (2) have expired, the local authority shall, subject to the provisions of section 131, hear the objections lodged or representations made in respect of the establishment of the township.
- (4) After the preceding provisions of this section have been complied with a local authority which is not an authorised local authority, shall through the Director—
 - (a) notify the Administrator of its intention to establish a township and state the grounds therefore;
 - (b) submit to the Administrator—
 - (i) a copy of every objection lodged and all representations or comments made in respect of the establishment of the township and the comments of the local authority thereon;
 - (ii) a copy of the record of the proceedings at a hearing contemplated in subsection (3);
 - (iii) a copy of the plan of the township; and
 - (iv) such other documents as may be prescribed.

109. Decision of Administrator or authorised local authority

- (1) After the provisions of section 108 have been complied with—
 - (a) the Administrator may, in the case of a local authority which is not an authorised local authority, authorise the establishment of the township;
 - (b) an authorised local authority may resolve to establish the township:

Provided that where the Administrator has been requested in terms of section 107(2)(ii) to expropriate the rights to minerals, the local authority shall not establish the township until such time as—

- (i) the holder, usufructuary or lessee of such rights has consented to the establishment of the township; or

[Sub-para, (i) amended by para. 15 of Proc. 1 of 1992]

- (ii) such rights have been expropriated in terms of the Expropriation of Mineral Rights (Townships) Act, 1969.

- (2) Where the relevant authority in terms of subsection (1)—
 - (a) authorises the establishment of the township, it may impose any condition it may deem expedient;
 - (b) resolves to establish the township, it shall set out in the resolution the conditions which will apply to the township.

- (3) Where the relevant authority has, in terms of subsection (1), authorised the establishment of the township or has resolved to do so, as the case may be—
- (a) it shall notify—
- (i) the local authority contemplated in section 108(4), where applicable;
 - (ii) every local authority to which a copy of the plan of the township has been forwarded in terms of section 108(1)(b);
 - (iii) the Surveyor-General;
 - (iv) the Registrar;
 - (v) every objector and every person who has made representations, thereof and of any condition contemplated in subsection (2);
- (b) the local authority shall forthwith lodge for approval with the Surveyor-General such plans, diagrams or other documents as the Surveyor-General may require.
- (4) Where the authorised local authority has, in terms of subsection (1), resolved to establish the township, any objector may, within a period of 28 days from the date he was notified of the resolution, or within such further period, not exceeding 28 days, as the Director may allow, appeal through the Director to the Administrator.
- (5) The provisions of section 104(2) and subsections (4) up to and including (14) of section 59 shall apply *mutatis mutandis* to an appeal contemplated in subsection (4).

110. Lodging of plans, diagrams and title deeds for endorsement or registration

- (1) The local authority shall lodge with the Registrar the plans and diagrams contemplated in section 109(3)(b) as approved by the Surveyor-General together with the relative title deeds for endorsement or registration, as the case may be.
- (2) Having endorsed or registered the title deeds contemplated in subsection (1), the Registrar shall notify the local authority forthwith of such endorsement or registration and thereafter the Registrar shall not register any further transactions in respect of any land situated in the township until such time as a notice as contemplated in section 111 has been published.

110A. Change of ownership of land

If land referred to in section 107(1) is the subject of a township to be established and that land is transferred to any other person before the provisions of section 111 are complied with, the provisions of Chapter in shall apply thereto: Provided that if steps to establish a township have already been taken in terms of this Chapter, and such steps must also be taken at the establishment of a township in terms of Chapter III, it shall be deemed that such steps have been taken in terms of Chapter III.

[S. 110A inserted by para. 16 of Proc. 1 of 1992]

111. Notice that township has been established

- (1) After the provisions of section 110 have been complied with, the relevant authority shall, by notice in the *Provincial Gazette*, declare that a township has been established by the local authority concerned and it shall, in a schedule to the notice, set out the conditions on which the township has been established: Provided that where any objection was lodged in terms of section 108(2), an authorised local authority shall not publish such a notice until such time as the periods contemplated in section 109(4) have expired and, where an appeal has been lodged in terms of that subsection, the appeal has been disposed of.
- (2) After an authorised local authority has published a notice as contemplated in subsection (1), it shall forward a copy of—
 - (a) the notice;
 - (b) the schedule to the notice; and
 - (c) the general plan of the township, as approved, forthwith to the Director.

112. Transfer of land to State

Where the relevant authority has imposed a condition in terms of section 109(2) that the land in the township be reserved for State purposes, such land shall be transferred by the local authority to the State at the expense of the local authority within a period of 6 months from the date of the publication of the notice contemplated in section 111.

113. Prohibition of registration of certain deeds of transfer

- (1) Subject to the provisions of subsection (2), the Registrar shall not register a deed of transfer by which the ownership of an erf in a township—
 - (a) is transferred before the notice contemplated in section 111 has been published;
 - (b) is transferred until such time as the provisions of section 112 have been complied with, where any condition set out in the schedule contemplated in section 111 requires that land be reserved for State purposes;
 - (c) in respect of which the notice contemplated in section 111 has been published, is transferred by the local authority until such time as the local authority has certified that it will, within a period of 3 months from the date of the certificate, be able to provide the erf with such services as it may deem necessary and that it is prepared to consider an application for the approval of a building plan in respect of the erf.
- (2) The provisions of subsection (1)(c) shall not apply to the transfer of an erf to the State where the erf has been reserved for State purposes by virtue of a condition set out in the schedule contemplated in section 111.

114. Effect of alteration, amendment or cancellation of general plan

- (1) Where the general plan of a township established by a local authority is, in terms of section 30(2) of the Land Survey Act, 1927—
 - (a) cancelled in whole—

- (i) the township shall cease to exist as a township;
 - (ii) the ownership of any land in the township which has been transferred to the State in terms of section 112 shall, subject to the provisions of subsection (2), *ipso facto* re-vest in the local authority;
- (b) cancelled in part—
- (i) that portion of the township to which the cancellation of the general plan relates shall cease to exist as a portion of the township;
 - (ii) the ownership of any land in the township to which the cancellation of the general plan relates which has been transferred to the State in terms of section 112 shall, subject to the provisions of subsection (2), *ipso facto* re-vest in the local authority.
- (2) Where the State has incurred expenditure in respect of land which has been transferred to it in terms of section 112 or is legally bound to incur such expenditure, that land shall not re-vest in the local authority in terms of subsection (1) until such time as such expenditure has been reimbursed or the State—
- (a) has been indemnified for the expenditure to be incurred; or
 - (b) has waived any claim in respect of such expenditure.
- (3) Where the ownership of any land re-vests in a local authority in terms of subsection (1), such land shall be transferred to it at its expense.

115. Observance and enforcement of conditions imposed by relevant authority

- (1) Where the Administrator or an authorised local authority has, in terms of the provisions of any law, imposed a condition relating to a township or an erf in a township—
- (a) the local authority within whose area of jurisdiction the township is situated shall observe the condition;
 - (b) the local authority contemplated in paragraph (a) shall refuse to approve any building plan which is in conflict with the condition;
 - (c) the local authority contemplated in paragraph (a) or the Administrator may enforce the condition.
- (2) Any person who contravenes or fails to comply with a condition contemplated in subsection (1) shall be guilty of an offence.

CHAPTER V ENGINEERING SERVICES

116. Provision of engineering services

- (1) Every township established in terms of Chapter III or IV shall be provided with such engineering services, as the Director may deem necessary for the proper development of the township.

- (2) Any person who is aggrieved by a decision of the Director in terms of subsection (1), may appeal in writing to the Administrator.

117. Classification of engineering services

Every engineering service to be provided for a township in terms of section 116 shall, in the case where the township is established by an owner of land who is not a local authority, hereinafter referred to as the applicant—

- (a) be classified by agreement between the applicant and the local authority to which application has been made for the establishment of the township, hereinafter referred to as the local authority concerned;
- (b) in the absence of agreement, be classified by the Services Appeal Board designated by the Director on the application by either the applicant or the local authority concerned,

as an internal or external engineering service in accordance with such guide-lines as the Administrator may determine.

118. Responsibility for installation and provision of engineering services

- (1) The—
 - (a) applicant shall be responsible for the installation and provision of internal engineering services;
 - (b) local authority concerned shall be responsible for the installation and provision of external engineering services.
- (2) Notwithstanding the provisions of subsection (1)—
 - (a) the local authority concerned may, at the request of and at the expense of the applicant, install and provide any internal engineering service or cause such service to be installed and provided;
 - (b) the applicant shall, at his expense, install and provide any external engineering service of which the local authority concerned is not the supplier or cause such service to be installed or provided.

119. Engineering services to be satisfaction of local authority concerned

- (1) The internal engineering services and any external engineering service contemplated in section 118(2)(b) shall be installed and provided to the satisfaction of the local authority concerned, and for that purpose the applicant shall lodge with that local authority such reports, diagrams and specifications as the local authority may require.
- (2) For the purposes of subsection (1), the local authority concerned shall have regard to such standards as the Administrator may determine for streets and storm water drainage, water, electricity and sewage disposal services.

120. Duty of local authority concerned to contribute towards costs of internal engineering services

(1) The local authority concerned shall pay to the applicant as a contribution towards the costs incurred by the applicant to install and provide the internal engineering services or cause such services to be installed and provided—

(a) an amount of money determined by agreement between the applicant and such local authority;

(b) in the absence of agreement, an amount of money determined by the Services Appeal Board designated by the Director on the application by either the applicant or the local authority concerned,

in accordance with such guide-lines as the Administrator may determine.

(2) The provisions of subsection (1) shall not apply to an internal engineering service of which the local authority concerned is not the supplier.

121. Duty of applicant to contribute towards costs of external engineering services

The applicant shall pay to the local authority concerned as a contribution towards the costs incurred by such local authority to install and provide the external engineering services or cause such services to be installed and provided—

(a) an amount of money determined by agreement between the applicant and such local authority;

(b) in the absence of agreement, an amount of money determined by the Services Appeal Board designated by the Director on the application by either the applicant or local authority concerned,

in accordance with such guide-lines as the Administrator may determine.

122. Responsibility for engineering services for township established by local authority

Where a township is established by a local authority, that local authority shall be responsible for the installation and provision of all engineering services to be provided for the township in terms of section 116.

123. Services Appeal Boards

(1) The Administrator shall, from time to time, by notice in the *Provincial Gazette*, establish one or more services appeal boards and he may in like manner abolish such a board.

(1A) Any services appeal board established in terms of this Ordinance before the assignment of the administration of this Ordinance under section 235(8) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), to a competent authority within the government of a province, shall cease to exist with effect from the date of such assignment: Provided that any matter pending before any such services appeal board immediately before the said date shall be disposed of by such services appeal board as if it had not ceased to exist.

[Sub-s. (1A) inserted by para. 4 of Proc. R. 161 of 1994]

- (2) A services appeal board shall consist of the following members appointed by the Administrator on such terms and conditions as he may determine:
 - (a) a president who shall be an advocate or attorney or a retired judge or magistrate;
 - (b) one person registered as a professional engineer in terms of the Professional Engineers' Act, 1968 (Act 81 of 1968); and
 - (c) one person registered as an accountant and auditor in terms of the Public Accountants' and Auditors' Act, 1951 (Act 51 of 1951).
- (3) The provisions of subsections (3), (4), (5), (6), (8) and (9) of section 17 shall apply *mutatis mutandis* to a services appeal board, and for the purposes of those subsections a reference to a compensation court shall be construed as a reference to a services appeal board.
- (4) A services appeal board may, subject to the provisions of this section and section 124, make its own rules regulating its procedure and proceedings.
- (5) A member of a services appeal board shall be paid such fees and allowances as the Administrator may, from time to time, either generally or specifically prescribe or determine.
- (6) Where any person who is not a local authority—
 - (a) lodges an application in terms of section 20(a)(ii), 88(3)(b)(i), 92(3)(a)(ii), 117(b), 120(1)(b) or 121(b) with a service appeal board;
 - (b) appeals to a service appeal board in terms of section 124,he shall deposit forthwith with the Director such amount of money as may be prescribed as security for the payment of the expenses contemplated in subsection (8).
- (7) Any party to the appeal may appear before a services appeal board in person or may be represented by any other person.
- (8) The Services Appeal Board shall direct that all expenses, including the fees and allowances contemplated in subsection (5), incurred by or on behalf of the Transvaal Provincial Administration in connection with—
 - (a) an application contemplated in section 20(3)(a)(ii), 88(3)(b)(i), 92(3)(a)(ii), 117(b), 120(1)(b) or 121(b) shall be paid by the applicant or the local authority concerned;
 - (b) an appeal in terms of section 124 shall be paid by one or more of the parties to the appeal,on such terms and conditions as the Services Appeal Board may determine.
- (9) When a services appeal board gives its decision, it may make such order as to costs as it may deem just, and where it makes such an order it shall, in its discretion, determine the amount of the costs.

- (10) Where any person contemplated in subsection (6) fails to comply with a directive in terms of subsection (8), the Director may pay the expenses contemplated in the latter subsection from the amount of money deposited by such person in terms of the first-mentioned subsection, and refund the balance, if any, to him.

124. Appeals to Services Appeal Board

- (1) Where—
- (a) any person is aggrieved by a decision of a local authority in terms of section 20(2)(c)(i);
 - (b) an owner is aggrieved by a decision of a local authority in terms of section 48(1)(a) or 63(1)(a);
 - (c) an applicant is aggrieved by a decision of a local authority in terms of section 119;
 - (d) an applicant for the establishment of a township in terms of any repealed law is aggrieved by a decision of a local authority in respect of the installation and provision of engineering services to the township, including the standards to which such services shall comply, or the refusal or unreasonable delay of a local authority to give such a decision, he may, notwithstanding the provisions of section 141(2)—
 - (i) within a period of 28 days from the date he was notified in writing by the local authority of the decision, or within such further period, not exceeding 28 days, as the Director may allow;
 - (ii) at any time, in the case of a refusal or delay to give such a decision,

appeal through the Director to the Services Appeal Board designated by the Director by lodging with the Director a notice of appeal setting out the grounds of appeal, and he shall at the same time provide the local authority with a copy of the notice.

- (2) After the provisions of subsection (1) and section 123(6) have been complied with, the Services Appeal Board shall determine a day, time and place for the hearing of the appeal and it shall, not less than 14 days prior to the day so determined, notify every party to the appeal, including the local authority concerned, of the day, time and place so determined.
- (3) After a hearing contemplated in subsection (2), the Services Appeal Board may give any decision it may deem just, and thereupon it shall notify every party to the appeal in writing of its decision and the reasons therefor.

**CHAPTER VI
GENERAL**

125. Approval or adoption of town-planning scheme under certain circumstances

- (1) Where—
- (a) a notice is or has been published in terms of sections 79 or 103 declaring a township an approved township;
 - (b) a notice is or has been published in terms of section 111 declaring that a township has been established by a local authority;
 - (c) a proclamation contemplated in section 49 of the Deeds Registries Act, 1937, is or has been published extending the boundaries of an approved township or a township contemplated in section 111 to include land contemplated in the first-mentioned section;
 - (d) a notice is or has been published in terms of section 90(5) declaring that the general plan of an approved township, a township contemplated in section 111 or a division of land has been altered, amended or totally or partially cancelled;
 - (e) an application for the division of land has been approved in terms of section 11(1), 15(1), 18(1) or 19(11)(a) of the Division of Land Ordinance, 1986 (Ordinance 20 of 1986), the relevant authority may, by notice in the *Provincial Gazette*—
 - (i) if the land—
 - (aa) in the township contemplated in paragraph (a) or (b);
 - (bb) contemplated in paragraph (c) or (e);
 - (cc) which is or has been affected by an alteration, an amendment or a cancellation contemplated in paragraph (d),

is situated within the area of jurisdiction of a local authority which is not an authorised local authority for purposes of Chapter II, declare that it has approved a town-planning scheme relating to the same land as the land contemplated in subparagraph (aa), (bb) or (cc);

- (ii) if the land contemplated in subparagraph (i)(aa), (bb) or (cc) is situated within the area of jurisdiction of a local authority which is an authorised local authority for purposes of Chapter II declare that it has adopted a town-planning scheme relating to the same land as the land contemplated in that subparagraph,

and that a copy of the scheme will lie for inspection at all reasonable times at the office of the Director and of the local authority concerned, and thereupon the scheme contemplated in subparagraph (ii) shall be deemed to be an approved scheme.

- (2) For the purposes of subsection (1) "relevant authority", where the land contemplated in subsection (1)(i)(aa), (bb) or (cc)—

- (a) is situated within the area of jurisdiction of a local authority which is not an authorised local authority for purposes of Chapter n, means the Administrator;
- (b) is situated within the area of jurisdiction of a local authority which is an authorised local authority for purposes of Chapter II, means that local authority.

(3) An applicant for—

- (a) the establishment of a township shall, in addition to the requirements of section 75(1);
- (b) the extension of the boundaries of an approved township shall, in addition to the requirements of sections 69(2) and 88(1);
- (c) the alteration, amendment or total or partial cancellation of the general plan of—
 - (i) an approved township shall, in addition to the requirements of section 89(1) and (2);
 - (ii) a division of land shall, in addition to the requirements of section 30(1) of the Division of Land Ordinance, 1986, and section 89(2);
- (d) the division of land shall, in addition to the requirements of section 6(1) and (2) of the Division of Land Ordinance, 1986,

pay such fees, submit such documents and furnish such information to the local authority concerned as may be prescribed in order to enable the local authority to prepare a town-planning scheme as contemplated in subsection (1).

(4) A local authority which is not an authorised local authority for purposes of Chapter II shall, within a period of 3 months from the date of receipt of the fees and documents contemplated in subsection (3), or within such further period as the Director may allow, submit the town-planning scheme concerned through the Director to the Administrator for approval.

(5) Where a local authority fails to comply with the provisions of subsection (4), the applicant may prepare and submit a town-planning scheme through the Director to the Administrator for approval, in which case the local authority shall refund to the applicant the fees contemplated in subsection (3).

(6) Where—

- (a) the Administrator has, in terms of subsection (1), declared that he has approved a town-planning scheme, he shall provide the local authority;
- (b) an authorised local authority has, in terms of subsection (1), declared that it has adopted a town-planning scheme, it shall provide the Director,

with a copy of the scheme.

(7) In respect of a town-planning scheme contemplated in subsection (1)—

- (a) any provision of this Ordinance;
- (b) any other provision,

which the Administrator may prescribe shall apply.

126. Compensation not claimable in certain circumstances

No person shall, in respect of a particular matter or thing, be entitled to—

- (a) claim compensation in terms of this Ordinance, where compensation in respect of such matter or thing was paid in terms of any other law;
- (b) receive greater compensation in terms of this Ordinance than that he would be entitled to in terms of any other law.

127. Powers of State President in respect of land transferred for State purposes—

Where any land transferred to the State for State purposes in accordance with this Ordinance or any repealed law relating to townships is, in the opinion of the State President, no longer suitable or required for such purposes, the State President may, after he has given due notice to the Administrator of his intention to do so, sell or donate such land or any portion thereof or exchange it for other land and authorise the transfer thereof free from any condition of title limiting the use thereof to State purposes.

128. Powers of local authority in respect of land transferred to it

- (1) Where any land has been transferred to a local authority in accordance with this Ordinance or any repealed law relating to townships the local authority may, subject to the provisions of the Local Government Ordinance, 1939, sell or donate such land or any portion thereof or exchange it for other land.
- (2) Where any land is sold, donated or exchanged in terms of subsection (1)—
 - (a) the Administrator may, subject to the provisions of any interim or approved scheme, authorise the transfer thereof free from any restriction applicable by virtue of any condition set out in the schedule contemplated in section 79 or 103;
 - (b) the proceeds from the sale or exchange of land transferred to the local authority for the purpose of open spaces or parks shall be utilised only for the acquisition or development of land for that purpose or such other purpose as the Administrator may determine.

129. Power of Administrator in respect of illegal township

- (1) Where, in the opinion of the Administrator, any person is establishing or has established a township in conflict with the provisions of—
 - (a) this Ordinance;
 - (b) any repealed law relating to townships,

the Administrator may, subject to the provisions of any law relating to mining, publish a notice in the *Provincial Gazette*—

- (i) stating the title deed description of the land on which the township is being or has been established;

- (ii) declaring the township an illegal township, and the Director shall notify the owner of the land that the township has been so declared.
- (2) After the publication of a notice in terms of subsection (1) no person shall—
 - (a) erect, alter, extend, maintain, occupy or use any building;
 - (b) permit any other person to erect, alter, extend, maintain, occupy or use any building,on the land referred to in the notice, unless he has obtained the written approval of the Administrator beforehand.
- (3) Where the Administrator grants approval in terms of subsection (2), he may impose any condition he may deem expedient.
- (4) The Administrator may, in his discretion, by notice in the *Provincial Gazette* cancel a notice contemplated in subsection (1).
- (5) Any person who contravenes or fails to comply with—
 - (a) the provisions of subsection (2);
 - (b) any condition imposed in terms of subsection (3), shall be guilty of an offence.

130. Defeating objects of Ordinance

- (1) Where—
 - (a) the Surveyor-General or Registrar has reasonable grounds for believing that any person by his lay-out, division or disposal of land;
 - (b) a local authority has reasonable grounds for believing that any person by his erection of any building on or division of land,is—
 - (i) about to establish, a township unlawfully;
 - (ii) in any other manner defeating or is about to defeat any object of this Ordinance, he or it shall forthwith refer the matter to the Director for investigation.
- (2) Having investigated the matter, the Director shall submit his report thereon to the Administrator.
- (3) On receipt of the report contemplated in subsection (2) the Administrator shall satisfy himself whether the lay-out, division or disposal of the land or the erection of a building thereon constitutes or will constitute the unlawful establishment of a township or in any other manner defeats or will defeat any object of this Ordinance, and if the Administrator is so satisfied, the Director shall notify the Surveyor-General or Registrar who or local authority which referred the matter to him accordingly.

- (4) Where the Administrator is satisfied that the lay-out, division or the disposal of land or the erection of a building thereon constitutes or will constitute the unlawful establishment of a township or in any other manner defeats or will defeat any object of this Ordinance—
- (a) the Surveyor-General shall not approve any diagram or plan or the lay-out or division of such land;
 - (b) the Registrar shall not register any transfer or lease of such land or portion thereof;
 - (c) the local authority shall not—
 - (i) approve a building plan in respect of any building to be erected on;
 - (ii) permit the erection of any building on;
 - (iii) approve the division of, such land.

131. Hearing of objections or representations and notice thereof

- (1) Where in terms of any provision of this Ordinance the Board or a local authority shall hear objections lodged or representations made, the Board or local authority, as the case may be, shall forthwith determine a day, time and place for the hearing.
- (2) Not less than 14 days prior to the day determined in terms of subsection (1), the Board or local authority, as the case may be, shall notify every objector, every person who has made representations and every other person who or body which, in the opinion of the Board or local authority, has any interest in the matter of the day, time and place so determined.
- (3) At a hearing contemplated in subsection (1)—
- (a) every objector and every person who has made representations may set out the grounds of his objection or representations;
 - (b) every other interested person or body may state his or its case, and adduce evidence in support thereof or authorise any other person to do so on his behalf.
- (4) A hearing contemplated in subsection (1) shall be open to the public.
- (5) Where the objections or representations contemplated in subsection (1) of more than one person are contained in one document, it shall be deemed sufficient compliance with the provisions of subsection (2) if the person who has lodged the document or is a signatory thereto is notified as contemplated in the latter subsection.

132. False or misleading information in connection with application

Any person who wilfully and with intent to defraud furnishes false or misleading information in connection with an application contemplated in this Ordinance shall be guilty of an offence.

133. Continuing contravention of provision of this Ordinance

Any person who has been convicted of a contravention of any provision of this Ordinance shall, if he continues with such contravention, be guilty of an offence and liable on conviction to a fine not exceeding R100 or to imprisonment for a period not exceeding 10 days or to both such fine and such imprisonment for each day on which he so continues.

134. General penalty

Any person convicted of an offence in terms of this Ordinance for which no penalty is expressly provided, shall be liable to a fine not exceeding R5 000 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

135. Administrator may prescribe fees

The Administrator may, except where the power is conferred upon an authorised local authority to levy fees, prescribe fees in respect of—

- (a) any act, matter or application in terms of this Ordinance;
- (b) anything required or authorised to be done in terms of this Ordinance.

136. Authorised local authority may determine fees

Where an authorised local authority intends to levy fees in terms of this Ordinance, it shall—

- (a) if it is a local authority as contemplated in paragraph (a) of the definition of "local authority", determine the fees either in the manner prescribed in section 80B of the Local Government Ordinance, 1939, or by by-law, and where fees are determined by by-law, the provisions of that Ordinance relating to the making, approval and promulgation of by-laws shall apply;
- (b) if it is a local authority as contemplated in paragraph (b) of the definition of "local authority", determine the fees by by-law in accordance with the procedure prescribed in the Transvaal Board for the Development of Peri-Urban Areas Ordinance, 1943, for the making, approval and promulgation of by-laws.

137. Payment of fees

- (1) Any fees prescribed in terms of section 135 or determined in terms of section 136 shall be payable in advance.
- (2) The Administrator may, in his discretion, exempt any person from the payment of the fees prescribed in terms of section 135, and an authorised local authority which has determined fees in terms of section 136 may, in its discretion, exempt any person from the payment of such fees.

138. Regulations

- (1) The Administrator may make regulations in regard to any matter which may be prescribed and in respect of any other matter which he may deem necessary or expedient to prescribe for the better carrying out of the objects of this Ordinance.

- (2) Regulations made in terms of subsection (1) may provide for penalties for a contravention thereof or failure to comply therewith, but no penalty shall exceed a fine of R500 or imprisonment for a period of 3 months or both such fine and such imprisonment.

139. Appeals to Board

- (1) An applicant or objector who is aggrieved by—
 - (a) a decision of a local authority—
 - (i) in terms of section 20(3)(b), 48(1)(b) or 63(1)(b);
 - (ii) on any application in terms of—
 - (aa) any provision of this Ordinance;
 - (bb) any town-planning scheme, may, within a period of 28 days from the date he has been notified in writing by such local authority of the decision, or within such further period, not exceeding 28 days, as the Board may allow;
 - (b) the refusal or unreasonable delay of a local authority to give a decision contemplated in paragraph (a) may, at any time,

if this Ordinance does not provide for an appeal to the Administrator, a compensation court or a services appeal board, appeal through the Director to the Board by lodging with the Director a notice of appeal setting out the grounds of appeal, and he shall at the same time provide the local authority with a copy of the notice.

- (2) Where any person who is aggrieved by—
 - (a) a decision of a local authority in favour of another person, hereinafter referred to as the third person;
 - (b) the refusal or unreasonable delay of a local authority to give a decision in respect of an application,

appeals to the Board in terms of subsection (1), the Board shall afford the third person or the person who has lodged an objection in respect of the application or town-planning scheme an opportunity to oppose the appeal.

- (3) Any other person than the local authority who is a party to the appeal shall, within a period of 30 days from the date on which he became a party to the appeal, deposit with the Director such amount of money as may be prescribed as security for the payment of the expenses contemplated in subsection (7), and if he fails so to deposit the amount he shall cease to be a party to the appeal.
- (4) After the provisions of subsection (1), (2) and (3) have been complied with, the Director shall submit the appeal to the Board, and the Board shall—
 - (a) determine a day, time and place for the hearing of the appeal; and

- (b) not less than 14 days prior to the day determined in terms of paragraph (a), notify every party to the appeal, including the local authority, of the day, time and place so determined.
- (5) At a hearing contemplated in subsection (4)—
 - (a) the local authority may state its case and adduce evidence in support thereof;
 - (b) any other party to the appeal may state his case and adduce evidence in support thereof or authorise any other person to do so on his behalf.
- (6) After a hearing contemplated in subsection (4), the Board may—
 - (a) confirm, amend or set aside the decision contemplated in subsection (1)(a);
 - (b) give any decision which the local authority would have been competent to give, and thereupon it shall notify every party to the appeal in writing of its decision and the reasons therefor.
- (7) The Board shall direct one or more of the parties to the appeal to pay all the expenses incurred by or on behalf of the Transvaal Provincial Administration in connection with the appeal on such terms and conditions as it may determine.
- (8) When the Board gives its decision in terms of subsection (6) it may make such order as to costs as it may deem just, and where it makes such an order it shall, in its discretion, determine the amount of the costs.
- (9) Where any person contemplated in subsection (3) fails to comply with a directive in terms of subsection (7), the Director may pay the expenses contemplated in the latter subsection from the amount of money deposited by such person in terms of the first-mentioned subsection, and refund the balance, if any, to him.

140. Director to inform Board of certain decisions

Where the Administrator has taken a decision in terms of the provisions of this Ordinance which is in conflict with a recommendation of the Board or where the Administrator amends or deletes any condition recommended by the Board or imposes a condition not recommended by the Board, the Director shall forthwith inform the Board thereof.

140A. Notice of change of ownership to local authority

If land is the subject of an application to a local authority in terms of the provisions of this Ordinance and that land is transferred to any other person before the conclusion of the application concerned, that other person shall, subject to the provisions of section 78, without delay and in writing notify the local authority concerned of such change of ownership, mentioning his name and postal address.

[S. 140A inserted by para. 17 of Proc. 1 of 1992]

141. Repeal of laws and savings

- (1) Subject to the provisions of this section, the laws referred to in the Schedule to this Ordinance are hereby repealed to the extent set out in the third column of that Schedule.

- (2) Where any matter is, on the date of the commencement of this Ordinance, pending before the Administrator, the Board, a local authority, a valuation board, a valuation appeal board or a compensation court in terms of any provision of a law repealed by subsection (1), it shall be dealt with as if this Ordinance had not been passed: Provided that such matter shall remain pending for as long as a development contribution payable in terms of a provision of a law repealed by subsection (1) has not been paid.

[Proviso to sub-s. (2) inserted by para. 18 of Proc. 1 of 1992]

- (3) Any claim to compensation in respect of a town-planning scheme approved in terms of a law repealed by subsection (1) shall be dealt with as if this Ordinance had not been passed.
- (4) Anything done in terms of a provision of a law repealed by subsection (1) and which may be done in terms of a provision of this Ordinance, is hereby deemed to have been done in terms of the last-mentioned provision.

142. Short title

This Ordinance shall be called the Town-planning and Townships Ordinance, 1986.

SCHEDULE
LAWS REPEALED
(SECTION 141)

<i>Number and year of Law</i>	<i>Short title</i>	<i>Extent of repeal</i>
Act 34 of 1908	Townships Amendment Act, 1908	Section 52
Ordinance 25 of 1965	Town-planning and Townships Ordinance, 1965	The whole
Ordinance 23 of 1966	Town-planning and Townships Amendment Ordinance, 1966	The whole
Ordinance 16 of 1969	Town-planning and Townships Amendment Ordinance, 1969	The whole
Ordinance 15 of 1970	Town-planning and Townships Amendment Ordinance, 1970	The whole
Ordinance 8 of 1971	Town-planning and Townships Amendment Ordinance, 1971	The whole
Ordinance 17 of 1972	Town-planning and Townships Amendment Ordinance, 1972	The whole
Ordinance 6 of 1973	Town-planning and Townships Amendment Ordinance, 1973	The whole
Ordinance 18 of 1974	Town-planning and Townships Amendment Ordinance, 1974	The whole
Ordinance 16 of 1975	Town-planning and Townships Amendment Ordinance, 1975	The whole
Ordinance 14 of 1976	Municipalities Powers of Expropriation Repeal Ordinance, 1976	Section 11
Ordinance 22 of 1976	Town-planning and Townships Amendment Ordinance, 1976	The whole
Ordinance 5 of 1977	Town-planning and Townships Amendment Ordinance, 1977	The whole
Ordinance 11 of 1977	Local Authorities Rating Ordinance, 1977	Section 51
Ordinance 17 of 1977	Town-planning and Townships Second Amendment Ordinance, 1977	The whole
Ordinance 21 of 1978	Town-planning and Townships Amendment Ordinance, 1978	The whole
Ordinance 7 of 1979	Town-planning and Townships Amendment Ordinance, 1979	The whole
Ordinance 19 of 1980	Town-planning and Townships Amendment Ordinance, 1980	The whole except section 10
Ordinance 18 of 1981	Division of Land Amendment Ordinance, 1981	Section 6
Ordinance 19 of 1981	Town-planning and Townships Amendment Ordinance, 1981	The whole
Ordinance 19 of 1982	Town-planning and Townships Amendment Ordinance, 1982	The whole