

PROVINCE OF WESTERN CAPE

PROVINSIE WES-KAAP

# Provincial Gazette Extraordinary

5872

Thursday, 16 May 2002

# Buitengewone Provinsiale Roerant

5872

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## CONTENTS

### PROVINCIAL NOTICE

The following Bill is hereby published for general information:

Western Cape Land Use Planning Ordinance, 1985,  
Amendment Bill, 2002

P.N. 124/2002 16 May 2002

Any person or organisation wishing to comment on the said Bill is requested to lodge such comment in writing before or on 6 June 2002:

(a) by posting it to:

The Secretary: ~~commissaris van die provinsiale land gebruikbeplanning~~  
Western Cape Provincial Parliament  
Provincial Parliament (Attention: Mr. A. Ferreira)  
P.O. Box 648  
Cape Town 8000

(b) by e.mail to:

aferreir@pawc.wcape.gov.za

(c) by fax to:

A. Ferreira  
(021) 487-1685

P. J. C. Pretorius

Secretary to Parliament

## INHOUD

### PROVINSIALE KENNISGEWING

Die volgende Wetsontwerp word hierby vir algemene inligting gepubliseer:

Wes-Kaapse Ordonnansie op Grondgebruikbeplanning, 1985, Wysigingswetsontwerp, 2002

P.K. 124/2002

16 Mei 2002

Enige persoon of organisasie wat kommentaar oor die genoemde Wetsontwerp wens te lewer, word versoek om sodanige kommentaar skriftelik te lewer voor of op 6 Junie 2002:

(a) deur dit te pos aan:

Die Sekretaris  
Wes-Kaapse  
Provinsiale Parlement (Aandag: Mn. A. Ferreira)  
Posbus 648  
Kaapstad 8000

(b) deur dit te e.pos aan:

aferreir@pawc.wcape.gov.za

(c) deur dit te faks aan:

A. Ferreira  
(021) 487-1685

P. J. C. Pretorius

Sekretaris van die Parlement

**GENERAL EXPLANATORY NOTE:**

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

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

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**BILL**

**To amend the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), so as to extend to 17 years the period during which owners of land may exercise land use rights; and to provide for matters incidental thereto.**

**B**E IT ENACTED by the Provincial Parliament of the Province of the Western Cape, as follows:—

**Amendment of section 14 of Ordinance 15 of 1985**

1. Section 14(2) of the Land Use Planning Ordinance, 1985, is amended by the substitution for paragraphs (a) and (b), of the following paragraphs:

“(2) (a) If after the expiry of a period of [16] 17 years after the date of commencement of this Ordinance any use right in respect of land to which the applicable provisions of section 7 apply has not been exercised, the land concerned shall, subject to the provisions of paragraph (b) of this subsection, be deemed to be zoned in accordance with the utilisation thereof, as determined by the council concerned, and any applicable zoning map existing at the said expiry shall lapse.

(b) Subject to the provisions of paragraph (c) of this subsection an appeal committee shall, before expiry of the period of [15] 17 years mentioned in paragraph (a) of this subsection or any extended period determined by the said appeal committee in terms of this subsection, on the application of the owner concerned and if, in the opinion of the said appeal committee, the said owner has suffered or will suffer loss, extend the said period or extended period in relation to the said land concerned by such period as the appeal committee may determine; provided that such extension shall be for a period of at least 5 years.”.

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**Short title**

2. This Act is called the Western Cape Land Use Planning Ordinance, 1985, Amendment Act, 2002.

**ALGEMENE VERDUIDELIKENDE NOTA:**

[ ] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.

  Woorde met 'n volstreep daaronder dui inwoegings in bestaande verordenings aan.

**WETSONTWERP**

**Tot wysiging van die Ordonnansie op Grondgebruikbeplanning, 1985 (Ordonnansie 15 van 1985), om sodoende die periode waarin eienaars van grondgebruiksregte kan uitoefen te verleng tot 17 jaar; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.**

**D**AAR WORD BEPAAL deur die Provinsiale Parlement van die Provinsie Wes-Kaap, soos volg:—

**Wysiging van artikel 14 van Ordonnansie 15 van 1985**

1. Artikel 14(2) van die Ordonnansie op Grondgebruikbeplanning, 1985, word 5 gewysig deur die vervanging van paragrawe (a) en (b) met die volgende paragrawe:

10       “(2) (a) Indien na die verstryking van 'n tydperk van [16] 17 jaar na die datum van inwerkingtreding van hierdie Ordonnansie enige gebruiksreg ten opsigte van grond waarop die toepaslike bepalings van artikel 7 van toepassing is, nie uitgeoefen is nie, word die betrokke grond behoudens die bepalings van paragraaf (b) van hierdie subartikel geag gesoneer te wees in ooreenstemming met die aanwending daarvan, soos deur die betrokke raad bepaal, en verval enige toepaslike soneringskaart wat by genoemde verstryking bestaan.

15       (b) Behoudens die bepalings van paragraaf (c) van hierdie subartikel moet 'n appèlkomitee voor verstryking van die tydperk van [15] 17 jaar in paragraaf (a) van hierdie subartikel vermeld of enige verlengde tydperk ingevolge hierdie subartikel deur genoemde appèlkomitee bepaal, op aansoek van die betrokke eienaar en indien genoemde eienaar na die mening van genoemde appèlkomitee verlies gely het of nog sal ly, genoemde tydperk of verlengde tydperk met die tydperk deur genoemde appèlkomitee bepaal, met betrekking tot die betrokke grond verleng; met dien verstande dat sodanige verlenging vir 'n tydperk van minstens 5 jaar sal wees.”.

**Kort titel**

25       2. Hierdie Wet heet die Wes-Kaapse Ordonnansie op Grondgebruikbeplanning, 1985, Wysigingswet, 2002.

## EXPLANATORY MEMORANDUM

Section 14 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), provides for the lapsing of land use rights which were not exercised for a period of 15 years since the commencement of the Ordinance on 1 July 1986. When the land use rights lapse, the relevant land shall be deemed to be zoned in accordance with the legal utilisation thereof, as determined by the local authority. This provision was included in the Ordinance so that long term planning decisions, which were taken before the commencement of the Ordinance, shall not exist *ad infinitum*. Local Government requested the Provincial Government to investigate this matter and to possibly promulgate arrangements before 1 July 2001 when the above land use rights would have lapsed. Local Government was concerned that landowners, whose land use rights would lapse, might claim compensation from local authorities. An extension of 1 year was granted by the Western Cape Act on the Amendment of the Land Use Planning Ordinance, 2001. This extension, however, expires on 30 June 2002 and it is now necessary that this period of 16 years (15+1), be extended by a further 1 year. This matter is also being addressed in the Western Cape Planning and Development Act, 1999 (Act 7 of 1999), which has as yet not been implemented. The extension of the period, which has since become 16 years (15+1), by a further 1 year, will grant the Provincial Government adequate time to investigate the matter properly and to promulgate appropriate legislation.

With regard to the matter of compensation, the local government will be proceeding in accordance with the applicable law to determine what amounts will be due to the relevant landowner(s) for the loss of the right to receive compensation for the value of the land in accordance with the relevant legislation.

As regards the matter of the amendment of the Land Use Planning Ordinance, the following is proposed:

The following amendment to the Land Use Planning Ordinance (Ordinance 15 of 1985) is proposed:

Section 14(1) of the Land Use Planning Ordinance is hereby amended by the addition of the following words at the end of the section:

"(2) The period referred to in subsection (1) is increased by one year, so that the period is 16 years (15+1)."

Section 14(2) of the Land Use Planning Ordinance is hereby amended by the deletion of the word "and" in the first sentence of the section.

Section 14(3) of the Land Use Planning Ordinance is hereby amended by the addition of the following words at the end of the section:

"(2) The period referred to in subsection (1) is increased by one year, so that the period is 16 years (15+1)."

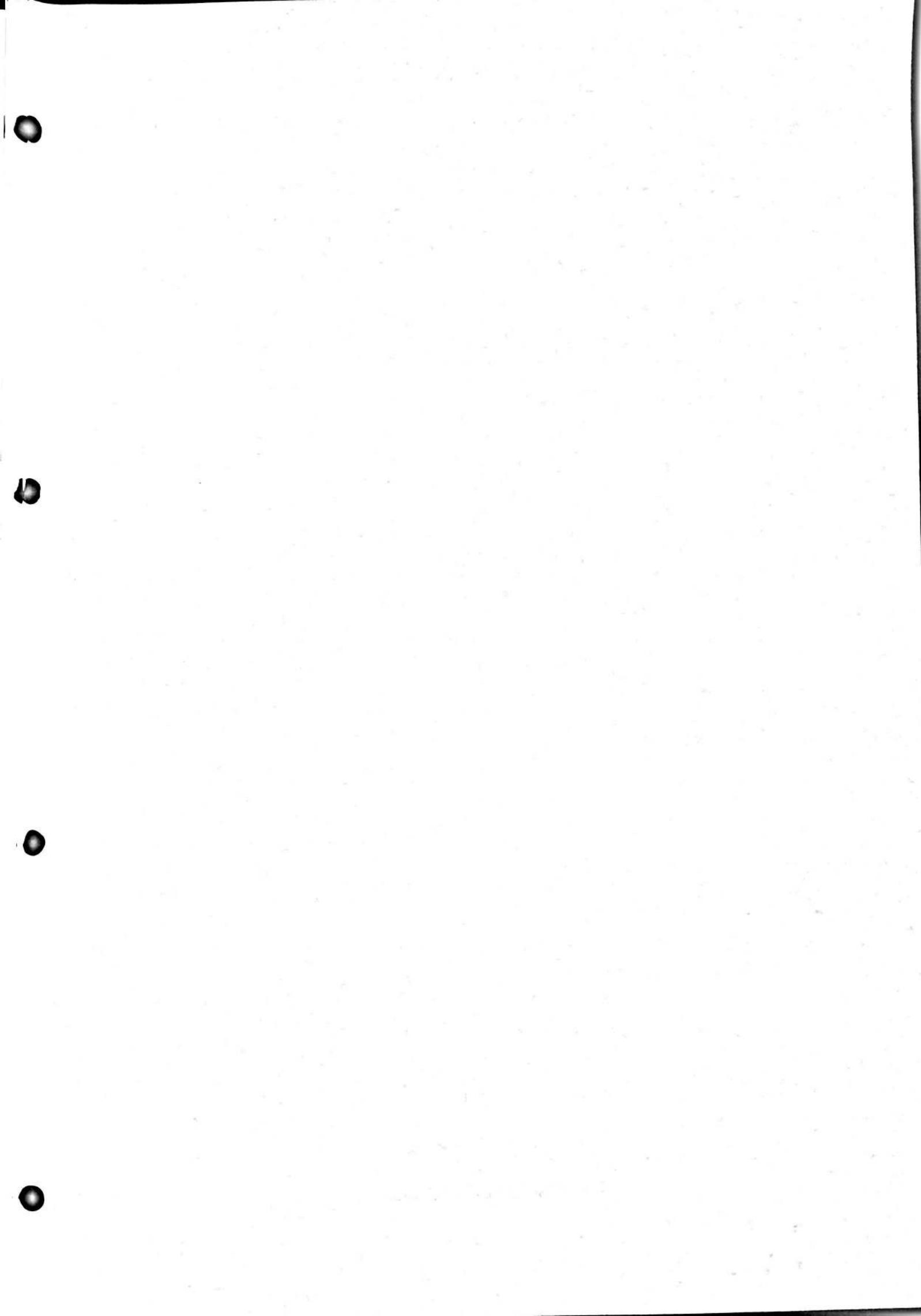
Done this 16th day of May, 2002.

Given under my hand and signed by me in my official capacity as Minister of Local Government on the 16th day of May, 2002.

## VERDUIDELIKENDE MEMORANDUM

Artikel 14 van die Ordonnansie op Grondgebruikbeplanning, 1985 (Ordonnansie 15 van 1985), maak voorsiening vir die verval van grondgebruiksregte wat vir 'n tydperk van 15 jaar vanaf die inwerkingtreding van die Ordonnansie op 1 Julie 1986 nie uitgeoefen is nie. Wanneer die grondgebruiksregte verval, sal die betrokke grond geag gesoneer te wees in ooreenstemming met die wettige aanwending daarvan, soos deur die plaaslike owerheid bepaal. Hierde bepaling is destyds in die Ordonnansie ingeskryf om voorsiening te maak dat langtermynbeplanningsbesluite, wat voor die inwerkingtreding van die Ordonnansie geneem is, nie *ad infinitum* voortbestaan nie. Plaaslike Regering het die Provinsiale Regering versoek om hierdie aangeleentheid te ondersoek en moontlik ander maatreëls af te kondig voor 1 Julie 2001 wanneer die bovenoemde grondgebruiksregte sou verval. Die Plaaslike Regering was bekommerd daaroor dat grondeienaars wie se gebruiksregte sou verval, moontlik eise vir skadevergoeding teen plaaslike owerhede kon inbring. 'n Verlenging van 1 jaar is toegestaan deur die Wes-Kaapse Wet op die Wysiging van die Ordonnansie op Grondgebruikbeplanning, 2001. Die verlenging verval egter op 30 Junie 2002 en dit is nou nodig dat hierdie tydperk van 16 jaar (15+1) met 'n verdere 1 jaar verleng word. Hierdie aangeleentheid word ook in die Wes-Kaapse Wet op Beplanning en Ontwikkeling, 1999 (Wet 7 van 1999), wat nog nie geïmplementeer is nie, aangespreek. Die verlenging van die tydperk, wat intussen 16 jaar (15+1) geword het, met 'n verdere 1 jaar, sal die Provinsiale Regering voldoende tyd gee om die aangeleentheid behoorlik te ondersoek en gepaste wetgewing in plek te kry.

EDITION IN GERMAN AND ENGLISH



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