



# Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA  
REPUBLIEK VAN SUID AFRIKA

Vol. 648

5 June  
Junie 2019

No. 42510

N.B. The Government Printing Works will  
not be held responsible for the quality of  
“Hard Copies” or “Electronic Files”  
submitted for publication purposes

ISSN 1682-5843



**AIDS HELPLINE: 0800-0123-22 Prevention is the cure**



**IMPORTANT NOTICE:**

**THE GOVERNMENT PRINTING WORKS WILL NOT BE HELD RESPONSIBLE FOR ANY ERRORS THAT MIGHT OCCUR DUE TO THE SUBMISSION OF INCOMPLETE / INCORRECT / ILLEGIBLE COPY.**

**No FUTURE QUERIES WILL BE HANDLED IN CONNECTION WITH THE ABOVE.**

**Contents**

<i>No.</i>	<i>Gazette No.</i>	<i>Page No.</i>
------------	------------------------	---------------------

**GENERAL NOTICES • ALGEMENE KENNISGEWINGS****Rural Development and Land Reform, Department of/ Landelike Ontwikkeling en Grondhervorming, Departement van**

311	Spatial Planning and Land Use Management Act (16/2013): General notice of an application for exemption in terms of section 55 of the Act .....	42510	4
-----	--	-------	---

---

## GENERAL NOTICES • ALGEMENE KENNISGEWINGS

---

### DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM

#### NOTICE 311 OF 2019

#### GENERAL NOTICE OF AN APPLICATION FOR EXEMPTION IN TERMS OF SECTION 55 OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, 16 OF 2013

Notice is here hereby given in terms of Section 51(1) of the Spatial Planning and Land Use Management Act (Act 16 of 2013) read together with regulation 33(5): that the under-mentioned application has been received by the Minister of Rural Development and Land Reform and is open for perusal during normal office hours at the office of the Acting Deputy Director-General: Spatial Planning and Land Use Management Act, Office 612, 6<sup>th</sup> Floor, Capitol Towers Building, 224 Hellen Joseph Street, Pretoria; or on the departments website: <http://www.ruraldevelopment.gov.za>. Any objections/representations must be lodged in writing within 60 days of this notice, to the Acting Director-General, at the above-mentioned address, posted to Private Bag X 833, Pretoria, 0001 or by Email on [rajesh.makan@drdlr.gov.za](mailto:rajesh.makan@drdlr.gov.za) on or before the closing, quoting the above-mentioned heading, interest in the matter, the ground(s) of the objection/representation.

#### 1. THE NATURE OF THE APPLICATION

Application for exemption from the provisions of section 43(2) in terms of section 55(1) of the Spatial Planning and Land Use Management Act, 16 of 2013 for the geographic area of the province of the Western Cape as defined in the Constitution (Act 106 of 1996).

Section 43 (2) of the Act states:

43. *Conditional approval of application:*

(2) *A conditional approval of an application lapses if a condition is not complied with, within—*

- (a) *a period of five years from the date of such approval, if no period for 40 compliance is specified in such approval; or*
- (b) *the period for compliance specified in such approval, which, together with any extension which may be granted, may not exceed five years.*

##### 1.1. Area:

The Whole of the Western Cape Province as provided for in Schedule 1A of the Constitution (Act 106 of 1996)

##### 1.2. Organ Of State Requesting Exemption:

Western Cape Department of Local Government, Environmental Affairs and Development Planning:-  
PROVINCE: Western Cape

#### 2. REASONS FOR EXEMPTION

The reasons for the request are stated by the applicant are as follows:

*"The main concern is that development projects (small, medium and large and regardless of the scale and type of land use application) within the Western Cape may be at risk and may not be able to*

comply with the requirement of Section 43(2) of the Act. This will ultimately have negative consequences for economic growth, job creation and poverty alleviation.

Related to the above, municipalities and developers would be reluctant to invest in large infrastructure and land development projects if development rights cannot be secured for periods longer than five years on approval or at least have the possibility of extensions to validity periods begin granted.

Municipalities and other organs of state responsible for infrastructure provision and human settlement projects are also subject to the limitations imposed by this provision. It would be undesirable at various levels, if infrastructure projects, budgeted for and partially implemented had to be abandoned due to the lapsing of land use rights provided for in the Act. Section 43(2) also presents the following challenges: -

- the absolute requirement that all conditions must be complied with is a different concept as a validity period coupled with the non-commencement of an approval which has been the custom in the Western Cape;
- in terms of this section, an absurd situation may present itself in terms of which a semi-completed development will lapse if one of the conditions has not been complied with. The whole approval will lapse, which means even the completed phases become illegal;
- there is no provision for any extension of the validity period beyond the five years. The only recourse in such an event is to submit a fresh application, with all its related challenges of costs, time, public participation and resultant uncertainty of a reinstatement of the previous approval;
- if the initial development application was subjected to an appeal or even a judicial review, this section will mean that any new application may invoke an appeal and judicial review on the same application again.
- The five year period creates too much uncertainty, is shorter than the average economic cycle and will affect private developers (large and small), municipalities, as well as private individuals alike, negatively; and
- It does not support a developmental approach; it may work against it.

### 3. PROPOSED ALTERNATIVE PROCEDURE

The application proposes the following to be substituted as an alternative provision as required in terms of Section 55(1)(b) of the Spatial Planning and Land Use Management Act, 16 of 2013. That the provision of section 43(2) be substituted with the following provisions:

- i. The exemption granted for the province of the western cape will be effective in the area of a municipality only if :-
  - a. the municipal council has taken a resolution to accept and implement the exemption from the provisions of section 43(2) of the Spatial Planning and Land Use Management Act, 16 of 2013; and
  - b. the municipality has regulated for the lapsing of rights and extension of validity periods in their respective by-laws on municipal land use planning.
- ii. In absence of a council resolution contemplated in paragraph i(a) and the inclusion of the relevant regulations in their respective by-laws as contemplated in paragraph i(b) hereinabove, the provisions of section 43(2) remain applicable and enforceable in the area of that municipality.

*The Western Cape Government fully supports the principle of validity periods/lapsing of rights but is of the opinion that it should be regulated for and be extendable, by a municipality as circumstances dictate.*

*Since SPLUMA, as national framework legislation does not provide for such extension to be considered beyond five years, as a result, it could also not be provided for in Western Cape Land Use Planning Act, 2014 or in By-laws on Municipal Land Use Planning of individual municipalities."*



**MINISTER: MS M NKOANA-MASHABANE**

# **WARNING!!!**

## **To all suppliers and potential suppliers of goods to the Government Printing Works**

The Government Printing Works would like to warn members of the public against an organised syndicate(s) scamming unsuspecting members of the public and claiming to act on behalf of the Government Printing Works.

One of the ways in which the syndicate operates is by requesting quotations for various goods and services on a quotation form with the logo of the Government Printing Works. Once the official order is placed the syndicate requesting upfront payment before delivery will take place. Once the upfront payment is done the syndicate do not deliver the goods and service provider then expect payment from Government Printing Works.

Government Printing Works condemns such illegal activities and encourages service providers to confirm the legitimacy of purchase orders with GPW SCM, prior to processing and delivery of goods.

To confirm the legitimacy of purchase orders, please contact:

Anna-Marie du Toit (012) 748-6292 ([Anna-Marie.DuToit@gpw.gov.za](mailto:Anna-Marie.DuToit@gpw.gov.za)) and

Siraj Rizvi (012) 748-6380 ([Siraj.Rizvi@gpw.gov.za](mailto:Siraj.Rizvi@gpw.gov.za))

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001  
Contact Centre Tel: 012-748 6200. eMail: [info.egazette@gpw.gov.za](mailto:info.egazette@gpw.gov.za)  
Publications: Tel: (012) 748 6053, 748 6061, 748 6065