

**WESTERN CAPE LAND USE PLANNING ORDINANCE, 1985, DRAFT
AMENDMENT BILL, 2009**

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.

DRAFT BILL

To amend the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), so as to provide for the continued existence of certain land use rights that have not been exercised within the prescribed time period; to provide for a further period during which owners of land may exercise such land use rights; and to provide for matters incidental thereto.

WHEREAS the Land Use Planning Ordinance, 1985, Amendment Act, 2007, (the Amendment Act), provided for the extension of the time period during which owners of land may exercise certain land use rights, which period was due to expire;

WHEREAS the Amendment Act was published in the *Provincial Gazette* on 5 July 2007, and, in terms of section 33(1) of the Constitution of the Western Cape, 1997, took effect on that date, which date was after the expiry of the time period within which the said rights had to be exercised;

WHEREAS certain land owners, municipalities and other roleplayers were apparently not aware of the expiry of the time period and conducted processes in respect of land use rights as if the said time period had not expired;

WHEREAS there are administrative burdens and legal uncertainty with regard to the effect of the Amendment Act; and

WHEREAS it is necessary to have legal certainty in respect of the period within which the said rights may be exercised and to extend that period,

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

Repeal of Act 4 of 2007

1. The Land Use Planning Ordinance, 1985, Amendment Act, 2007, is hereby repealed.

Amendment of section 14 of Ordinance 15 of 1985

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

“(2)(a) If **[after the expiry of a period of 21 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] is not **[been]** exercised before 30 June 2011, 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] on** the said **[expiry] date** shall lapse.**

(b) Subject to the provisions of paragraph (c) of this subsection an appeal committee shall, before **[expiry of the period of 21 years] the date** mentioned in paragraph (a) of this subsection or any extended **[period] date** 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] date** or extended **[period] date** in relation to the said land concerned **[by] to** such **[period] date** as the appeal committee may

determine; provided that such extension shall be for a period of at least 5 years.”.

(2) Section 2(1) is regarded as having taken effect on 30 June 2007.

Validation of certain acts

3. Anything done by any person, including any organ of state, after 30 June 2007 and which is invalid, but which would have been valid had section 2(1) of this Act been in operation at that stage, is regarded as valid.

Short title

4. This Act is called the Western Cape Land Use Planning Ordinance, 1985, Amendment Act, 2009.