

NATIONAL BUILDING REGULATIONS AND BUILDING STANDARDS ACT - NO. 103 OF 1977

Assented to: 22 June 1977

Date of commencement: 1 September 1985

ACT

To provide for the promotion of uniformity in the law relating to the erection of buildings in the areas of jurisdiction of local authorities; for the prescribing of building standards; and for matters connected therewith.

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1. Definitions

In this Act, unless the context otherwise indicates-

application means an application referred to in section 4 (2);

architect means an architect as defined in section 1 of the Architects' Act, 1970 (Act No. 35 of 1970);

architectural area means the sum of the areas of the several floors of a building, including basements, mezzanine and intermediate floor tiers and penthouses of headroom height, measured from the exterior faces of the exterior walls;

building includes-

- (a) any other structure, whether of a temporary or permanent nature and irrespective of the materials used in the erection thereof, erected or used for or in connection with-
 - (i) the accommodation or convenience of human beings or animals;
 - (ii) the manufacture, processing, storage, display or sale of any goods;
[Sub-para. (ii) substituted by s. 1 (b) of Act No. 62 of 1989.]
 - (iii) the rendering of any service;
 - (iv) the destruction or treatment of refuse or other waste materials;
 - (v) the cultivation or growing of any plant or crop;
- (b) any wall, swimming bath, swimming pool, reservoir or bridge or any other structure connected therewith;
- (c) any fuel pump or any tank used in connection therewith;
- (d) any part of a building, including a building as defined in paragraph (a), (b) or (c);
- (e) any facilities or system, or part or portion thereof, within or outside but incidental to a building, for the provision of a water supply, drainage, sewerage, stormwater disposal, electricity supply or other similar service in respect of the building;
[Para. (e) added by s. 1 (c) of Act No. 62 of 1989.]

building control officer means any person appointed or deemed to be appointed as building control officer by a local authority in terms of section 5;

bureau means the bureau as defined in section 1 of the Standards Act;

code of practice means code of practice as defined in section 1 of the Standards Act;

compulsory standard specification

[Definition of "compulsory standard specification" deleted by s. 1 (a) of Act No. 36 of 1984.]

council means the council as defined in section 1 of the Standards Act;

directive means a directive made in terms of section 17 (4);

erection, in relation to a building, includes the alteration, conversion, extension, rebuilding, re-erection, subdivision of or addition to, or repair of any part of the structural system of, any building; and "erect" shall have a corresponding meaning;

[Definition of "erection" substituted by s. 1 (e) of Act No. 62 of 1989.]

land surveyor means a land surveyor as defined in section 49 of the Land Survey Act, 1927 (Act No. 9 of 1927);

local authority means-

- (a) any institution, council or body contemplated in section 84 (1) (f) of the Provincial Government Act, 1961 (Act No. 32 of 1961);
- (b)

- (c) any statutory body designated by the Minister, after consultation with the Administrator of the province in question, by notice in the *Gazette* as a local authority for the purposes of this Act or any provision thereof,

[Definition of "local authority" substituted by s. 1 (f) of Act No. 62 of 1989.]

Minister means the Minister of Economic Affairs and Technology;

[Definition of "Minister" substituted by s. 1 (b) of Act No. 36 of 1984 and by s. 1 (d) of Act No. 62 of 1989.]

national building regulations means the national building regulations made in terms of section 17;

owner, in relation to a building or land, means the person in whose name the land on which such building was or is erected or such land, as the case may be, is registered in the deeds office in question: Provided that if-

- (a) such person, in the case of a natural person, is deceased or was declared by any court to be incapable of managing his own affairs or a prodigal or is a patient as defined in section 1 of the Mental Health Act, 1973 (Act No. 15 of 1973), or if his estate has been sequestrated, the executor or curator concerned, as the case may be;
- (b) such person, in the case of a juristic person, has been liquidated or placed under judicial management, the liquidator or judicial manager concerned, as the case may be;
- (c) such person is absent from the Republic or if his whereabouts are unknown, any person who, as agent or otherwise, undertakes the management, maintenance or collection of rentals or other moneys in respect of such building or land or who is responsible therefor;
- (d) the local authority in question is unable to determine the identity of such person, any person who is entitled to the benefit of the use of such building or land or who enjoys such benefit,

[Para. (c) substituted by s. 1 (c) of Act No. 36 of 1984.]

shall be deemed to be the owner of such building or land;

professional engineer

[Definition of "professional engineer" deleted by Act No 49 of 1995.]

registered person means a person defined in section 1 of the Engineering Profession of South Africa Act, 1990 (Act No 114 of 1990), as a certificated engineer, engineering technician, professional engineer or professional technologist (engineering);

[Definition of "registered person" inserted by Act No 49 of 1995.]

regulations means the regulations made in terms of section 20;

review board means the review board referred to in section 9;

specification means a specification as defined in section 1 of the Standards Act;

[Definition of "specification" inserted by s. 1 (d) of Act No. 36 of 1984.]

standard method means a standard method as defined in section 1 of the Standards Act;

[Definition of "standard method" inserted by s. 1 (d) of Act No. 36 of 1984.]

standard specification means a standard specification as defined in section 1 of the Standards Act;

Standards Act means the Standards Act, 1982 (Act No. 30 of 1982);

[Definition of "Standards Act" substituted by s. 1 (e) of Act No. 36 of 1984.]

statutory body means any board, fund, institution, company, corporation or other organization established or constituted by or under any law;

structural system, in relation to a building, means the system of constructional elements and components of any building which is provided to resist the loads acting upon it and to transfer such loads to the ground upon which the foundation of the building rests;

[Definition of "structural system" inserted by s. 1 (g) of Act No. 62 of 1989.]

Territory

[Definition of "Territory" deleted by s. 1 (f) of Act No. 36 of 1984.]

this Act includes the national building regulations made and directives issued in terms of it.

2. **Application of Act**

(1) Subject to the provisions of any notice published in terms of subsection (2), the provisions of this Act shall apply in the area of jurisdiction of any local authority.

(2)(a) The Minister may, on such conditions as he may think fit and after consultation with the council and the Administrator of the province in question, of his own accord or at the request of a local authority or any other person, by notice in the *Gazette* exempt the area of jurisdiction, or any part thereof, of any local authority from the application of this Act, or of any provision or provisions thereof which are mentioned in the notice.

[Para. (a) substituted by s. 2 (a) of Act No. 36 of 1984 and by s. 2 (a) of Act No. 62 of 1989.]

(b) Different notices may in terms of paragraph (a) be published in respect of different local authorities or different categories of local authorities.

(3) Subject to the provisions of subsection (4) this Act shall not bind the State.

(4) In respect of any building to be erected by or on behalf of the State, such plans, specifications and certificate as may be prescribed by national building regulation, shall before the commencement of such erection be lodged with the local authority in question for its information and comment: Provided that the Minister may-

(a) if he, with the concurrence of the Minister of Defense, the Minister of Law and Order and the Minister of Justice, is of the opinion that the erection or proposed erection of any building or class of buildings by or on behalf of the State is in the interest of or connected with the security of the Republic, exempt the State in relation to any such building or class of buildings;

[Para. (a) substituted by s. 2 (b) of Act No. 36 of 1984 and by s. 2 (b) of Act No. 62 of 1989.]

(b) by virtue of economic considerations, necessity or expediency, exempt the State, either generally or in any particular case,

after notice in writing to the local authority in question, from the provisions of this subsection.

(5) Subject to the provisions of subsections (7) and (8), the Minister may, on such conditions as he may think fit and with the concurrence of the Minister of Defense, exempt the owner of-

- (a) any place as defined in section 1 of the National Key Points Act, 1980 (Act No. 102 of 1980)-
 - (i) that has been declared a National Key Point in terms of section 2 of the said Act; or
 - (ii) in respect of which the Minister of Defense has certified that it will be declared a National Key Point under the said section 2 of that Act; or
- (b) any prohibited place as defined in section 1 (1) of the Protection of Information Act, 1982 (Act No. 84 of 1982),

after notice in writing to the local authority in question from the provisions of this Act.

[Sub-s. (5) added by s. 2 (c) of Act No. 62 of 1989.]

- (6) Subject to the provisions of subsection (7), the owner of any building which is or is to be erected on mining property and which is or is to be used exclusively for the operation of a mine or any works or machinery, as defined in the Mines and Works Act, 1956 (Act No. 27 of 1956), and which is in terms of section 2 of that Act subject to the supervision of the Chief Inspector as contemplated in the Mine Health and Safety Act, 1996, shall be exempted from the provisions of this Act.

[Sub-s. (6) added by s. 2 (c) of Act No. 62 of 1989 and amended by Sch 3 of Act No 29 of 1996.]

- (7) An owner shall in respect of the erection or proposed erection of a building with regard to which an exemption contemplated in subsection (4), (5) or (6) applies and in connection with-
 - (a) connections to electricity supply, water supply, sewer and stormwater drainage systems;
 - (b) provision on the relevant site for parking of more than 100 vehicles;
 - (c) service by the local authority's fire brigade in place of or in addition to any fire protection service provided by the owner,

supply the local authority concerned with sufficient details to enable such local authority to-

- (i) provide any connection, road traffic control and fire brigade service which may be required; or
- (ii) give notice in writing to such owner that it cannot so provide any such service.

[Sub-s. (7) added by s. 2 (c) of Act No. 62 of 1989.]

- (8) The owner of a National Key Point in respect of which an exemption contemplated in subsection (5) applies, shall, if the provisions of the National Key Points Act, 1980 (Act No. 102 of 1980), cease to apply in respect of him, forthwith submit to the local authority concerned such plans, specifications and certificates as may be prescribed by the national building regulations, and shall comply with such requirements of this Act as should in the opinion of that local authority be complied with to ensure the safety and health of the occupants of any relevant building.

[Sub-s. (8) added by s. 2 (c) of Act No. 62 of 1989.]

3. **Duties of draftsmen of plans, specifications, documents and diagrams**

Any person who prepared any plan, specification, document or diagram submitted in terms of this Act shall affix his name and address and, in the case of an architect, land surveyor or registered person, also his profession and registration number, if any, to such plan, specification, document or diagram.

[S. 3 amended by s. 2 of Act No 49 of 1995.]

4. Approval by local authorities of applications in respect of erection of buildings

- (1) No person shall without the prior approval in writing of the local authority in question, erect any building in respect of which plans and specifications are to be drawn and submitted in terms of this Act.
- (2) Any application for approval referred to in subsection (1) shall be in writing on a form made available for that purpose by the local authority in question.
- (3) Any application referred to in subsection (2) shall-
 - (a) contain the name and address of the applicant and, if the applicant is not the owner of the land on which the building in question is to be erected, of the owner of such land;
 - (b) be accompanied by such plans, specifications, documents and information as may be required by or under this Act, and by such particulars as may be required by the local authority in question for the carrying out of the objects and purposes of this Act.
- (4) Any person erecting any building in contravention of the provisions of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding R100 for each day on which he was engaged in so erecting such building.

5. Appointment of building control officer by local authority

- (1) Subject to the provisions of subsection (3) a local authority shall appoint a person as building control officer in order to exercise and perform the powers, duties or activities granted or assigned to a building control officer by or under this Act.
- (2) Any person not having the qualifications prescribed by national building regulation in respect of a building control officer shall not without the approval in writing of the Minister be appointed as building control officer in terms of subsection (1).
- (3) Subsection (1) shall also be construed so as to enable-
 - (a) two or more than two local authorities to appoint, on such conditions as they may agree to, one person as building control officer for all such local authorities;
 - (b) a local authority from time to time to appoint a person temporarily as building control officer;
 - (c) a local authority, with the approval in writing of any other local authority and on such conditions as they may agree to, to make use of the services of any person appointed as building control officer by such other local authority.
- (4) Any person who -
 - (a) immediately before the date of commencement of this Act was employed by a local authority in order to perform as controlling officer any activities substantially the same as the activities referred to in section 6 (1); and
 - (b) on such date is still so employed,

shall be deemed to have been appointed in terms of this section as building control officer by such local authority.

6. Functions of building control officers

- (1) A building control officer shall-
 - (a) make recommendations to the local authority in question, regarding any plans, specifications, documents and information submitted to such local authority in accordance with section 4 (3);
 - (b) ensure that any instruction given in terms of this Act by the local authority in question be carried out;
 - (c) inspect the erection of a building, and any activities or matters connected therewith, in respect of which approval referred to in section 4 (1) was granted;
 - (d) report to the local authority in question, regarding non-compliance with any condition on which approval referred to in section 4 (1) was granted.
- (2) When a fire protection plan is required in terms of this Act by the local authority, the building control officer concerned shall incorporate in his recommendations referred to in subsection (1) (a) a report of the person designated as the chief fire officer by such local authority, or of any other person to whom such duty has been assigned by such chief fire officer, and if such building control officer has also been designated as the chief fire officer concerned, he himself shall so report in such recommendations.
[Sub-s. (2) substituted by s. 3 (a) of Act No. 62 of 1989.]
- (3)
[Sub-s. (3) deleted by s. 3 (b) of Act No. 62 of 1989.]
- (4) This section shall not be construed so as to prohibit a local authority from granting or entrusting to a building control officer any powers, duties or activities not connected with this Act or to prohibit any building control officer, with the approval of a local authority, from delegating to an officer under his control any power, duty or function granted or entrusted to building control officers in terms of this Act.

7. Approval by local authorities in respect of erection of buildings

- (1) If a local authority, having considered a recommendation referred to in section 6 (1) (a)-
 - (a) is satisfied that the application in question complies with the requirements of this Act and any other applicable law, it shall grant its approval in respect thereof;
[Para. (a) substituted by s. 4 (a) of Act No. 62 of 1989.]
 - (b)(i) is not so satisfied; or
 - (ii) is satisfied that the building to which the application in question relates-
 - (aa) is to be erected in such manner or will be of such nature or appearance that-
 - (aaa) the area in which it is to be erected will probably or in fact be disfigured thereby;
 - (bbb) it will probably or in fact be unsightly or objectionable;
 - (ccc) it will probably or in fact derogate from the value of adjoining or neighbouring properties;
 - (bb) will probably or in fact be dangerous to life or property,

such local authority shall refuse to grant its approval in respect thereof and give written reasons for such refusal:

[Para. (b) amended by s. 4 (b) of Act No. 62 of 1989.]

Provided that the local authority shall grant or refuse, as the case may be, its approval in respect of any application where the architectural area of the building to which the application relates is less than 500 m², within a period of 30 days after receipt of the application and, where the architectural area of such building is 500 m² or larger, within a period of 60 days after receipt of the application.

[Sub-s. (1) amended by s. 4 (c) of Act No. 62 of 1989.]

(2)

[Sub-s. (2) deleted by s. 4 (d) of Act No. 62 of 1989.]

(3) When a local authority has granted its approval in accordance with subsection (1) (a) in respect of any application, such approval shall be endorsed on at least one of the copies of the plans, specifications and other documents in question returned to the applicant.

(4) Any approval granted by a local authority in accordance with subsection (1) (a) in respect of any application shall lapse after the expiry of a period of 12 months as from the date on which it was granted unless the erection of the building in question is commenced or proceeded with within the said period or unless such local authority extended the said period at the request in writing of the applicant concerned.

(5) Any application in respect of which a local authority refused in accordance with subsection (1) (b) to grant its approval, may, notwithstanding the provisions of section 22, at no additional cost and subject to the provisions of subsection (1) be submitted anew to the local authority within a period not exceeding one year from the date of such refusal-

(a)(i) if the plans, specifications and other documents have been amended in respect of any aspect thereof which gave cause for the refusal; and

(ii) if the plans, specifications and other documents in their amended form do not substantially differ from the plans, specifications or other documents which were originally submitted; or

(b) where an application is submitted under section 18.

[Sub-s. (5) substituted by s. 4 (e) of Act No. 62 of 1989.]

(6) The provisions of this section shall not be construed so as to prohibit a local authority, before granting or refusing its approval in accordance with subsection (1) in respect of an application, from granting at the written request of the applicant and on such conditions as the local authority may think fit, provisional authorization to an applicant to commence or proceed with the erection of a building to which such application relates.

[Sub-s. (6) substituted by s. 4 (f) of Act No. 62 of 1989.]

(7)(a) An application which is substantially the same as an application referred to in this Act and which before the date of commencement of this Act has been lodged with a local authority for its consideration and in respect of which such local authority on that date has not yet granted or refused its approval, shall be considered by such local authority as if this Act had not been passed.

(b) Approval granted by a local authority before the date of commencement of this Act in respect of an application substantially the same as an application referred to in this Act, shall be deemed to have been granted in terms of this section if the erection of the building in question has not been commenced with before the said date.

8. **Power of court in respect of approval by local authorities**

- (1) If a local authority fails to grant or refuse timeously its approval in accordance with section 7 in respect of an application, a court may on the application of the applicant concerned make an order directing such local authority to perform its duties and exercise its powers in accordance with that section within the period stated in such order, or make such other order as it may deem just.
- (2) Notwithstanding anything to the contrary contained in any law relating to magistrates' courts, a magistrate shall have the jurisdiction to make any order referred to in subsection (1).

9. Appeal against decision of local authority

- (1) Any person who-
 - (a) feels aggrieved by the refusal of a local authority to grant approval referred to in section 7 in respect of the erection of a building;
 - (b) feels aggrieved by any notice of prohibition referred to in section 10; or
 - (c) disputes the interpretation or application by a local authority of any national building regulation or any other building regulation or by-law,

may, within the period, in the manner and upon payment of the fees prescribed by regulation, appeal to a review board.

[Sub-s. (1) substituted by s. 5 of Act No. 62 of 1989.]

- (2) The review board referred to in subsection (1) shall consist of-
 - (a) a chairman designated by the Minister; and
 - (b) two persons appointed for the purpose of any particular appeal by the said chairman from persons whose names are on a list compiled in the manner prescribed by regulation.

10. Erection of buildings in certain circumstances subject to prohibition or conditions

- (1) If any building or earthwork-
 - (a) in the opinion of the local authority in question is being or is to be erected in such manner that it-
 - (i) will not be in the interest of good health or hygiene;
 - (ii) will be unsightly or objectionable;
 - (iii) will probably or in fact be a nuisance to the occupiers of adjoining or neighbouring properties;
 - (iv) will probably or in fact derogate from the value of adjoining or neighbouring properties;
 - (b) is being or is to be erected on a site which is subject to flooding or on a site which or any portion of which in the opinion of the local authority in question does not drain properly or is filled up or covered with refuse or material impregnated with matter liable to decomposition,

such local authority may by notice in writing, served by post or delivered, prohibit the person erecting such building or earthwork or causing such building or earthwork to be erected from commencing or proceeding with the erection thereof or from so commencing

or proceeding except on such conditions as such local authority may determine from time to time.

- (2) Any person who fails to comply with any provision of a notice or condition referred to in subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding R100 for each day on which he so failed.

11. Erection of buildings subject to time limit

- (1) If for a period exceeding 3 months the erection of a building is not proceeded with, the local authority in question may by notice in writing, served by post or delivered, order the owner of such building to resume and to complete the erection of such building within the periods specified in such notice.
- (2) If the owner of a building on or to whom a notice referred to in subsection (1) was served or delivered, fails to resume or complete the erection of such building within the periods specified in such notice, the local authority in question may extend such periods from time to time if such owner satisfies it that such failure was due to circumstances beyond his control.
- (3) If the owner of a building on or to whom a notice referred to in subsection (1) was served or delivered, fails to resume or to complete the erection of such building within the periods specified in such notice or, when applicable, within such periods as extended in accordance with subsection (2), and the local authority in question is of the opinion that such building is unsightly or dangerous to life or property or derogates from the value of adjoining or neighbouring properties, such local authority may by notice in writing, served by post or delivered, order such owner to demolish such building, to remove the material of which such building consisted and any other material or rubbish from the site in question, and to otherwise clean up such site within the period specified in the last-mentioned notice.
- (4) If the owner of a building fails to comply with a notice served on or delivered to him in accordance with subsection (3) in respect of such building, the local authority in question may demolish such building, remove the material of which such building consisted and any other material or rubbish from the site in question and otherwise clean up such site, and may recover the costs thereof from such owner: Provided that such local authority may sell such material and may utilize the proceeds of such sale to defray the costs of such demolition removal or clean-up and shall pay the balance, if any, of such proceeds to such owner.
- (5) Any approval granted by a local authority in accordance with section 7 (1) (a) in respect of any application shall lapse as soon as a notice in terms of subsection (3) is served on or delivered to the owner of the building in question in respect of such building.

12. Demolition or alteration of certain buildings

- (1) If the local authority in question is of the opinion that-
 - (a) any building is dilapidated or in a state of disrepair or shows signs thereof;
 - (b) any building or the land on which a building was or is being or is to be erected or any earthwork is dangerous or is showing signs of becoming dangerous to life or property,

it may by notice in writing, served by post or delivered, order the owner of such building, land or earthwork, within the period specified in such notice to demolish such building or to alter or secure it in such manner that it will no longer be dilapidated or in a state of disrepair

or show signs thereof or be dangerous or show signs of becoming dangerous to life or property or to alter or secure such land or earthwork in such manner that it will no longer be dangerous or show signs of becoming dangerous to life or property: Provided that if such local authority is of the opinion that the condition of any building, land or earthwork is such that steps should forthwith be taken to protect life or property, it may take such steps without serving or delivering such notice on or to the owner of such building, land or earthwork and may recover the costs of such steps from such owner.

- (2) If the condition of any building or the land on which a building was or is being or is to be erected or any earthwork is such that it is dangerous to life or property, the owner of such building, land or earthwork shall forthwith notify the local authority in question thereof.

- (3)(a) If the condition of any building or the land on which a building was or is being or is to be erected or any earthwork is such that it is dangerous or is showing signs of becoming dangerous to life or property, the local authority, irrespective of whether it was notified in terms of subsection (2), may by notice in writing, served by post or delivered, order the owner of such building, land or earthwork to instruct at the cost of such owner an architect or a registered person to investigate such condition and to report to such local authority on the nature and extent of the steps to be taken, in the opinion of such architect or registered person, in order to render such building, land or earthwork safe.

[Para. (a) amended by s. 3 of Act No 49 of 1995.]

- (b) The local authority in question may by notice in writing, served by post or delivered, order that any activities be stopped or prohibit the performance of any activities which may increase the danger or hinder or obstruct the architect or registered person referred to in paragraph (a) from properly carrying out the investigation referred to in that paragraph.

[Para. (b) amended by s. 3 of Act No 49 of 1995.]

- (c) If it is brought to the attention of a local authority or appears that an architect or registered person instructed in terms of paragraph (a) to perform certain duties is for any reason not competent to carry out the duties in question, the local authority may require such architect or registered person to submit evidence of his or her competence to carry out such duties.

[Para. (c) inserted by s. 3 of Act No 49 of 1995.]

- (d) If the architect or registered person contemplated in paragraph (c) is unable to satisfy the local authority of his or her competence to carry out the duties in question, the local authority may order the owner of the building, land or earthwork in question to instruct another architect or registered person to carry out the duties.

[Para. (d) inserted by s. 3 of Act No 49 of 1995.]

- (4) If the local authority in question deems it necessary for the safety of any person, it may by notice in writing, served by post or delivered-

- (a) order the owner of any building to remove, within the period specified in such notice, all persons occupying or working or being for any other purpose in such building therefrom, and to take care that any person not authorized by such local authority does not enter such building;

- (b) order any person occupying or working or being for any other purpose in any building, to vacate such building immediately or within a period specified in such notice.

- (5) No person shall occupy or use or permit the occupation or use of any building in respect of which a notice was served or delivered in terms of this section or steps were taken by the local authority in question in terms of subsection (1), unless such local authority has granted permission in writing that such building may again be occupied or used.

- (6) Any person who contravenes or fails to comply with any provision of this section or any notice issued thereunder, shall be guilty of an offence and, in the case of a contravention of the provisions of subsection (5), liable on conviction to a fine not exceeding R100 for each day on which he so contravened.

13. Exemption of buildings from national building regulations and authorization for erection thereof

- (1) Any building control officer may in respect of the erection of a building defined in the national building regulations as a minor building work, in writing-
- (a) exempt the owner of such building from the obligation to submit a plan in terms of this Act to the local authority in question for approval;
- (b) grant authorization for the erection of such building in accordance with the conditions and directions specified in such authorization.
- (2) Any authorization granted in terms of subsection (1) (b) shall lapse if after the expiry of a period of 6 months the erection of the building has not commenced, but the building control officer may from time to time extend such period at the written request of the owner of such building or any person having an interest therein if such building control officer is satisfied that there are sound reasons therefor.

[Sub-s. (2) substituted by s. 6 of Act No. 62 of 1989.]

- (3) If any building control officer refused to extend in terms of subsection (2) any period of 6 months referred to in that subsection, any person who feels aggrieved may in writing request the local authority in question to consider such refusal and thereupon such local authority may confirm such refusal or extend such period on such conditions as it may think fit.

14. Certificates of occupancy in respect of buildings

- (1) A local authority shall within 14 days after the owner of a building of which the erection has been completed, or any person having an interest therein, has requested it in writing to issue a certificate of occupancy in respect of such building-
- (a) issue such certificate of occupancy if it is of the opinion that such building has been erected in accordance with the provisions of this Act and the conditions on which approval was granted in terms of section 7, and if certificates issued in terms of the provisions of subsection (2) and, where applicable, subsection (2A), in respect of such building have been submitted to it;

[Para. (a) substituted by s. 7 (a) of Act No. 62 of 1989.]

- (b) in writing notify such owner or person that it refuses to issue such certificate of occupancy if it is not so satisfied or if a certificate has not been so issued and submitted to it.
- (1A) The local authority may, at the request of the owner of the building or any other person having an interest therein, grant permission in writing to use the building before the issue of the certificate of occupancy referred to in subsection (1), for such period and on such conditions as may be specified in such permission, which period and conditions may be extended or altered, as the case may be, by such local authority.

[Sub-s. (1A) inserted by s. 7 (b) of Act No. 62 of 1989.]

- (2) Any person licensed or authorized by a local authority to carry out the installation, alteration or repair of any electrical wiring connected or of which connection is desired with the

electrical supply or distribution works of such local authority or any statutory body, shall, at the request of the owner of a building of which the erection has been completed or of any person having an interest therein or of the local authority, issue a certificate if he is satisfied that the electrical wiring and other electrical installations in such building are in accordance with the provisions of all applicable laws.

[Sub-s. (2) amended by s. 4 of Act No 49 of 1995.]

(2A) Upon completion of the erection or installation of-

- (a) the structural system; or
- (b) the fire protection system; or
- (c) the fire installation system;

of any building the person appointed to design such system and to inspect the erection or installation, shall submit a certificate to the local authority indicating that such system has been designed and erected or installed in accordance with the application in respect of which approval was granted in terms of section 7.

[Sub-s. (2A) inserted by s. 7 (c) of Act No. 62 of 1989, and substituted by s. 4 of Act No 49 of 1995.]

(3) Any person who for the purposes of subsection (1)-

- (a) submits a certificate contemplated in subsection (2) or (2A) which is substantially false or incorrect, knowing the same to be false or incorrect;
 - (b) in a fraudulent manner issues or obtains a certificate contemplated in subsection (2) or (2A),
- shall be guilty of an offence.

[Sub-s. (3) amended by s. 4 of Act No 49 of 1995.]

(4)(a) The owner of any building, or any person having an interest therein, erected or being erected with the approval of a local authority, who occupies or uses such building or permits the occupation or use of such building-

- (i) unless a certificate of occupancy has been issued in terms of subsection (1) (a) in respect of such building;
- (ii) except in so far as it is essential for the erection of such building;
- (iii) during any period not being the period in respect of which such local authority has granted permission in writing for the occupation or use of such building or in contravention of any condition on which such permission has been granted; or,
- (iv) otherwise than in such circumstances and on such conditions as may be prescribed by national building regulation,

shall be guilty of an offence.

(b)

[Para. (b) deleted by s. 7 (d) of Act No. 62 of 1989.]

(5) The Minister may, on such conditions and for such period as he may think fit, by notice in the *Gazette* suspend the application of this section in the area of jurisdiction of any local authority-

15. **Entry by building control officers and certain other persons of certain buildings and land**

- (1) Any building control officer or any other person authorized thereto by the local authority may enter any building or land at any reasonable time with a view to inspection in connection with the consideration of any application submitted in terms of section 4, or to determine whether the owner of the building or land complies with any provision of this Act or any condition imposed by the local authority in terms of this Act.

[Sub-s. (1) substituted by s. 8 of Act No. 62 of 1989.]

- (2) Any person who hinders or obstructs any building control officer or person authorized by the local authority in question in the exercise of his powers in terms of subsection (1), shall be guilty of an offence.
- (3) Any building control officer shall, at the request of any person affected by the execution of any of his powers, duties or activities in terms of this Act, produce his certificate of appointment issued to him in the form prescribed by national building regulation.

16. Report on adequacy of certain measures and on certain building projects

- (1) The Minister, after consultation with the Administrator of a province in which the area of jurisdiction of a local authority is situated, may order such local authority to report to him on-
 - (a) the adequacy of measures in or in connection with buildings in its area of jurisdiction against fire, floods or other disasters and to make recommendations in order to remove any inadequacies in such measures;
 - (b) any particular building project which was or is being undertaken in its area of jurisdiction.
- (2) If the Minister is satisfied that any local authority is unable to report as contemplated in subsection (1), he may order the bureau so to report.
- (3) For the purposes of this section the local authority concerned or the bureau, as the case may be, shall have such powers, duties and functions as may be prescribed by regulation.

[Sub-s. (1) amended by s. 3 of Act No. 36 of 1984.]

17. National building regulations and directives

- (1) The Minister may after consultation with the council make regulations, to be known as national building regulations-
 - (a) regarding the preparation, submission and approval of plans and specifications of buildings, including the approval of amendments or alterations to plans and specifications of buildings during the erection thereof;
 - (b) to provide for inspections and tests in respect of buildings, whether before or during the erection or after the completion of the erection thereof, including the powers of building control officers in that regard, and the steps to be taken in order to prevent any nuisance which may occur before, during or after the completion thereof.,
 - (c) regarding the nature and preparation of sites on which buildings are to be erected;
 - (d) regarding the strength and stability of buildings;

- (e) to provide for the requirements with which buildings shall comply in so far as precautionary measures against fires or other emergencies are concerned, including the resistance of buildings against the outbreak and spreading of fires, the protection of the occupants or users of buildings or other persons against fires, the aids or other installations to be in buildings for the combating or prevention of fires and for the vacating of such buildings in cases of fires or other emergencies;
- (f) regarding the resistance of buildings against floods, moisture, the transmission of heat, sound or other injurious factors, and infestation by insects, vermin or other pests;
- (g) regarding the durability and other desirable properties of buildings;
- (h) regarding, the provision of water and of sewerage and drainage services in respect of buildings, including the compulsory connection with the supply, distribution or sewerage disposal works in question of local authorities;
- (i) regarding the ventilation and the provision for daylight in respect of buildings, including the provision of open spaces in connection therewith;
- (j) regarding the heating and artificial lighting of buildings;
- (k) regarding the supply and installing in respect of buildings of gas or electrical equipment, installations or service, including the supply and manner of installing of gas or electrical equipment for purposes of cooking or heating, or preventing, controlling, or restricting the emission of smoke or other offensive fumes;
- (l) to regulate, restrict or prohibit the use to which any building or categories of buildings may be put;
- (m) to regulate, restrict or prohibit 'access to buildings, irrespective of whether erection thereof is completed, or the sites on which buildings were or are being erected;
- (n) regarding the prevention of dangers or obstructions during or in connection with the erection of buildings, including the prevention of danger on adjoining or neighbouring premises, pavements, streets and other public places;
- (o) to regulate, restrict or prohibit the erection of temporary buildings and the occupation or use thereof or access thereto;
- (p) regarding, the protection of property, including public streets, places or open spaces, of local authorities, or other persons during or in connection with the erection of buildings;
- (q) to regulate, restrict or prohibit the performance of certain activities or categories of activities in or in connection with the erection of buildings by or under the supervision of other persons than persons having specified qualifications, experience or training;
- (r) subject to the provisions of the Housing Act, 1966 (Act No. 4 of 1966), regarding the demolition of buildings and matters connected therewith;
- (s) regarding the powers, duties and functions of local authorities if buildings were or are being erected or used in contravention of the provisions of this Act or any other law in force immediately before the date of commencement of this Act or of any approval or authority granted in terms of this Act or the said other law or if no such approval or authority was granted for the erection of such buildings;

- (t) regarding the general safety, health and convenience of the public in so far as they relate to the erection of buildings;
 - (u) regarding the safety, health and convenience of occupiers or users of buildings or of persons otherwise present in buildings or having access thereto, and the compulsory installing or supplying of equipment, installations or services in connection therewith;
 - (v) regarding any other matter which in terms of this Act is required or permitted to be prescribed by national building regulations;
 - (w) regarding, generally, any other matter deemed necessary or expedient by the council with the concurrence of the Minister in order to achieve the objects of this Act.
- (2) Different national building regulations may in terms of subsection (1) be made in respect of different buildings or categories of buildings, uses of buildings, areas or categories of areas, local authorities or categories of local authorities, or portions or categories of portions of the areas of jurisdiction of local authorities.
- (3)(a) When a national building regulation is published in the *Gazette*, the Minister shall publish together with it a notice calling upon all interested persons to lodge any objections which they have against such building regulation in writing with the council within the period specified in such notice.
- (b) A national building regulation referred to in paragraph (a) shall come into operation on a date fixed by the Minister by notice in the *Gazette* with regard to the period referred to in the said paragraph: Provided that the Minister, with the concurrence of the council, may in such notice alter such national building regulation in accordance with any objection lodged in respect thereof in terms of paragraph (a) without complying with the provisions of the said paragraph in respect of the national building regulation so altered.
- (4) If the Minister after consultation with the council is satisfied that any of or all the applicable national building regulations are inadequate or do not make any provision in respect of any particular building or buildings and that for sound reasons it shall not be expedient to amend such national building regulations or make any further national building regulations, as the case may be, the Minister may, having in writing notified the local authority in question, by notice in the *Gazette* or by notice sent by post or delivered-
- (a) exempt the owner of the land on which any such building is being or is to be erected from the provisions of such applicable national building regulations; and
 - (b) allow such owner to erect such building or buildings or to proceed with or complete the erection thereof in accordance with the applicable national building regulations from which he was not so exempted, if any, and the directives specified in such notice: Provided that no such directive may relate to any matter not specified in subsection (1).
- (5)(a) Notwithstanding anything to the contrary contained in any law the Minister may, if he is of the opinion that it is necessary or expedient for the proper compliance with or operation of any of or all the national building regulations or directives that any servitude or restrictive condition or other provisions applicable in respect of any land by or under any law or registered in respect of any land in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937), or otherwise applicable in respect of land, be removed or amended, after consultation with the Administrator of the province in which such land is situated and after compliance

with the procedure prescribed by regulation, by notice in the *Gazette* remove or, to such extent as he may indicate, amend such servitude, condition or provision.

[Para. (a) substituted by s. 4 (a) of Act No. 36 of 1984.]

- (b) On the publication of a notice referred to in paragraph (a) the Registrar of Deeds concerned shall in respect of the removal or amendment of the servitude, condition or provision in question, make suitable entries in the registers in his office, and when the title deed of any land to which such notice relates is for any purpose submitted to such Registrar he shall endorse such removal or amendment on such title deed.
- (6) Any provision occurring in a specification, standard specification, code of practice or standard method may be incorporated in a directive by mere reference, and in regard to such an incorporation the provisions of section 33 of the Standards Act shall *mutatis mutandis* apply as if it were an incorporation in a law.

[Sub-s. (6) substituted by s. 4 of (b) of Act No. 36 of 1984.]

- (7) The national building regulations or any directive may provide that, without fully defining any particular materials or methods of erection, in so far as quality and standards are concerned the use or employment of any specified materials or methods of erection or compliance with any specified specification, standard specification, code of practice or standard method shall be deemed to comply with the quality and standard required by such national building regulations or directive.

[Sub-s. (7) substituted by s. 4 (c) of Act No. 36 of 1984.]

- (8) In the national building regulations provisions may be included which the Minister deems necessary to ensure, notwithstanding the provisions of any other applicable law or the issue of a certificate of occupancy in terms of section 14, the essential maintenance or repair of any building or the efficient operation of any equipment or machinery installed therein.

[Sub-s. (8) added by s. 9 of Act No. 62 of 1989.]

18. Deviation and exemption from national building regulations

- (1) A local authority may, at the request in writing of the owner of any building or any person having an interest therein, in respect of the erection of such building or the land on which it is being or is to be erected, in writing permit a deviation or grant an exemption from any applicable national building regulation except a national building regulation regarding the strength and stability of buildings.
- (2) The council may, at the request in writing of the owner of any building or any person having an interest therein and after consultation with the local authority in question, in respect of the erection of such building or the land on which it is being or is to be erected, in writing permit a deviation or grant an exemption from any applicable national building regulation relating to the strength and stability of buildings.

19. Prohibition on use of certain methods or materials

- (1) If the Minister, after consultation with the council and notwithstanding anything to the contrary contained in any law, is satisfied that any method or material used or to be used in the erection of any building will not be in the public interest or will be dangerous to life or property, the Minister may, having in writing notified the local authority in question, by notice in the *Gazette* or by notice sent by post or delivered, prohibit the owner of the land on which such building is being or is to be erected from using such method or material in such erection.

- (2) Any person who contravenes or fails to comply with the provisions of a notice referred to in subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding R100 for each day on which he so contravened or failed.

20. Regulations

- (1) The Minister may make regulations-

- (a) regarding the procedure to be followed at the hearing of an appeal by a review board;
- (b) regarding the powers, duties and functions of a review board, including the power to summon witnesses for the purposes of hearing an appeal and to administer an oath or to accept an affirmation from any witness;
- (c) regarding the costs in connection with an appeal to a review board;
- (d) to prescribe the further matters in respect of which an appeal may be lodged with a review board;
- (e) in order, with the concurrence of the Minister of Finance, to prescribe the remuneration and travel and subsistence allowances payable to members, except members in the full-time employ of the State or the bureau, of a review board;

regarding any other matter which in terms of this Act is required or permitted to be prescribed by regulation.

- (2) Any regulation made under this section may prescribe that any person who contravenes or fails to comply with such regulation shall be guilty of an offence and liable on conviction to a fine not exceeding R200 or to imprisonment for a period not exceeding 2 months.

21. Order in respect of erection and demolition of buildings

Notwithstanding anything to the contrary contained in any law relating to magistrates' courts, a magistrate shall have jurisdiction, on the application of any local authority or the Minister, to make an order prohibiting any person from commencing or proceeding with the erection of any building or authorizing such local authority to demolish such building if such magistrate is satisfied that such erection is contrary to or does not comply with the provisions of this Act or any approval or authorization granted thereunder.

22. Power of local authorities relating to rates, taxes, fees and other moneys

The provisions of this Act shall not derogate from any power conferred by or under any other law upon any local authority to levy, receive or charge any rates, taxes, fees or other moneys in respect of any building or land or to levy, receive or charge moneys in connection with the examination of plans, specifications or information or the performance of any other duties in terms of this Act.

23. Exemption from liability

No approval, permission, report, certificate or act granted, issued or performed in terms of this Act by or on behalf of any local authority or the council in connection with a building or the design, erection, demolition or alteration thereof, shall have the effect that-

- (a) such local authority or the council be liable to any person for any loss, damage, injury or death resulting from or arising out of or in any way connected with the manner in which such building was designed, erected, demolished or altered or the material used in the erection of such building or the quality of workmanship in the erection, demolition or alteration of such building;
- (b) the owner of such building be exempted from the duty to take care and to ensure that such building be designed, erected, completed, occupied and used or demolished or altered in accordance with the provisions of this Act and any other applicable law;
- (c) any person be exempted from the provisions of any other law applicable in the area of jurisdiction of such local authority.

[S. 23 substituted by s. 10 of Act No. 62 of 1989.]

24. **General penalty clause**

Any person convicted of an offence under this Act in respect of which a fine or imprisonment is not expressly provided for, shall be liable to a fine not exceeding R4 000 or to imprisonment for a period not exceeding 12 months.

[S. 24 substituted by s. 11 of Act No. 62 of 1989.]

25. **Presumption**

If in any prosecution for an offence in terms of this Act it is necessary, in order to establish the charge against the accused, to prove that he failed to comply with the requirements of this Act relating to standard or quality of materials, design or workmanship, an allegation in the charge sheet that such accused so failed, shall be sufficient proof thereof unless the contrary is proved.

26. **Payment of certain moneys to local authorities**

Notwithstanding anything to the contrary contained in any law all moneys recovered by way of fines or estreated bail in connection with any offence in terms of this Act, except an offence referred to in section 20 (2), shall be paid to the local authority concerned.

27. **Powers of Minister in respect of certain local authorities**

- (1) If the Minister, after consultation with the council and the Administrator of the province in question, is satisfied that a local authority fails to apply any relevant provision of this Act properly in its area of jurisdiction, the Minister may by notice in writing, served by post or delivered, order such local authority to so apply such provision forthwith.

[Sub-s. (1) substituted by s. 5 (a) of Act No. 36 of 1984.]

- (2) If a local authority without reasonable cause fails to comply within a reasonable time with the provisions of any notice served on or delivered to it in terms of subsection (1), the Minister, after consultation with the council and the Administrator of the province in question, may by notice in the *Gazette* deprive such local authority of any power or exempt it from any duty conferred upon or entrusted to it by or in terms of this Act and confer such power or entrust such duty to any person, including such Administrator, mentioned in such notice, and thereupon such person shall for the purposes of such power or duty be deemed to be such local authority.

[Sub-s. (2) substituted by s. 5 (b) of Act No. 36 of 1984.]

- (3) Any notice published in the *Gazette* in terms of subsection (2) may be withdrawn in like manner.

28. Delegations of powers

- (1) The Minister may on such conditions as he may think fit, in writing delegate any power conferred on him by or under this Act, other than a power referred to in section 2 (2) or (4), 9 (2), 17, 19, 20, 27 or 29, to the director-general of the bureau, but the delegation of any such power shall not prevent the exercise thereof by the Minister himself

[Sub-s. (1) substituted by s. 12 of Act No. 62 of 1989.]

- (2) The council may in writing delegate any power conferred upon it-
- (a) by or under this Act, other than a power referred to in section 17 or 27, to the director-general of the bureau;
- (b) in terms of section 18 (2), on such conditions as it generally or in any particular case may think fit, to any local authority or category of local authorities,

but the delegation of any such power shall not prevent the exercise thereof by the council itself

- (3) The director-general of the bureau may in writing delegate any power delegated to him in terms of subsection (1) or (2) to any person in the employ of the bureau, but the delegation of any such power shall not prevent the exercise thereof by the director-general himself
- (4) Any local authority may in writing delegate any power conferred upon it by or under this Act, other than a power referred to in section 5, to any committee appointed by it or to any person in its employ, but the delegation of any such power shall not prevent the exercise thereof by such local authority itself.

29. Repeal of laws

- (1) Subject to the provisions of section 31 the provisions of any law applicable to any local authority are hereby repealed in so far as they confer a power to make building regulations or by-laws regarding any matter provided for in this Act: Provided that such provisions shall be deemed not to have been repealed in respect of-
- (a) any such building regulation or by-law which has not been replaced by or which is not repugnant to any national building regulation;
- (b) the area of jurisdiction, or any part thereof, of any local authority in so far as it has in terms of section 2 (2) been exempted from the application of any national building regulation, irrespective of whether such area of jurisdiction or part was exempted after the commencement of such national building regulation.
- (2) A local authority shall within six months after the coming into operation of the National Building Regulations and Building Standards Amendment Act, 1989, submit any building regulation or by-law referred to in paragraph (a) of subsection (1), and any standard building regulation referred to in the proviso to section 31, which is applied by the local authority by reason thereof that it is considered that the regulation or by-law, or standard building regulation, has not lapsed by virtue of subsection (1) or section 31, as the case may be in consolidated form in both official texts to the Minister.

[Sub-s. (2) added by s. 13 of Act No. 62 of 1989.]

- (3) The Minister shall consider a regulation or by-law, or standard building regulation, referred to in subsection (2), in consultation with the council and taking into consideration any submissions submitted thereon by the local authority in question, in order to determine whether in his opinion and in the opinion of the council it has been replaced by or is repugnant to any national building regulation, and shall forthwith make known in writing the decision to which he and the council came to the local authority.

[Sub-s. (3) added by s. 13 of Act No. 62 of 1989.]

- (4) With effect from the date of a written notification contemplated in subsection (3) of a decision that a relevant regulation or by-law, or standard building regulation, has been replaced by or is repugnant to any national building regulation, it shall-

- (a) for the purposes of subsection (1) (a) be deemed that the law under which the relevant building regulation or by-law was made, has been repealed in respect of a regulation or by-law to which the said decision relates; and
- (b) for the purposes of section 31 be deemed that section 14*bis* of the Standards Act, 1962 (Act No. 33 of 1962), under which the standard building regulation was framed and published, has been repealed in respect of a standard building regulation to which the said decision relates.

[Sub-s. (4) added by s. 13 of Act No. 62 of 1989.]

- (5) A local authority shall, in the case of a notification to it in terms of subsection (3) of a decision that a relevant regulation or by-law, or standard building regulation, has not been replaced by or is not repugnant to any national building regulation, make known the decision within a period of three months from the date of the decision by notice in the *Official Gazette* concerned, mentioning the full text of the regulation or by-law, or standard building regulation, concerned, in consolidated form and the law under which it was made or framed.

[Sub-s. (5) added by s. 13 of Act No. 62 of 1989.]

- (6) If a local authority fails to comply with a provision-

- (a) of subsection (2) within the period of six months contemplated therein; or
- (b) of subsection (5) within the period of three months contemplated therein,

the provisions of paragraph (a) or (b), as the case may be, of subsection (4) shall with effect from the day immediately following on the last day of the period of six or three months mentioned in paragraphs (a) and (b), respectively, *mutatis mutandis* apply in respect of the relevant regulation or by-law, or standard building regulation.

[Sub-s. (6) added by s. 13 of Act No. 62 of 1989.]

- (7)(a) The Minister may at any time, after written notice to the local authority concerned, and *mutatis mutandis* in accordance with the provisions of subsection (3), review any decision contemplated in subsection (5).

- (b) The provisions of subsection (4) shall *mutatis mutandis* apply in respect of a decision on review contemplated in paragraph (a), that a regulation or by-law, or standard building regulation, concerned has been replaced by or is repugnant to a national building regulation.

[Sub-s. (7) added by s. 13 of Act No. 62 of 1989.]

- (8)(a) A local authority which intends to make any regulation or by-law which relates to the erection of a building, shall prior to the promulgation thereof submit a draft of the regulation or by-law in writing and by registered post to the Minister for approval.

- (b) A regulation or by-law referred to in paragraph (a) which is promulgated without the Minister previously having approved of it shall, notwithstanding the fact that the promulgation is effected in accordance with all other legal provisions relating to the making and promulgation of the regulation or by-law, be void.

[Sub-s. (8) added by s. 13 of Act No. 62 of 1989.]

30

[S. 30 repealed by s. 40 (1) of Act No. 30 of 1982.]

31. **Repeal of section 14bis of Act 33 of 1962, as inserted by section 4 of Act 72 of 1964**

Section 14bis of the Standards Act is hereby repealed: Provided that that section shall be deemed not to have been repealed in respect of any standard building regulation which was framed and published in terms of that section and which has not been replaced by or is not repugnant to any national building regulation.

32

[S. 32 repealed by s. 40 (1) of Act No. 30 of 1982.]

33

[S. 33 repealed by s. 6 of Act No. 36 of 1984.]

34. **Short title and commencement**

This Act shall be called the National Building Regulations and Building Standards Act, 1977, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

AMENDMENTS

Standards Act, No. 30 of 1982

National Building Regulations and Building Standards Amendment Act, No. 36 of 1984

National Building Regulations and Building Standards Amendment Act, No. 62 of 1989

National Building Regulations and Building Standards Amendment Act, No. 49 of 1995

Mine Health and Safety Act, No 29 of 1996

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