

## Application of §6, §25 & §30 of Act 38/1927 (cont.)

- **Proc R293/1962** contained regulations concerning the administration and control of townships in Black areas.
- **Proc R9/1997** rationalised several Deeds Registration Offices existing prior to the enactment of the 1993 Constitution.

<b>Proc R293/1962 townships</b>			
EKUVUKENI	KWAMASHU	MPUMALANGA	SUNDUMBILI
NSELENI	KWAMSANE	MPUNGAMHLOPE	ULUNDI
ESIKHAWINI	KWANDENGEZI	NCOTSHANE	UMLAZI
EZAKHENI A-E	MADADENI	NDALENI	VULANDONDO
GAMALAKHE	MAGABENI	NGWELEZANA	VULINDLELA
GEZINSILA	MONDLO	NTUZUMA	WEMBEZI
KWAMAKUTA	MPOPHOMENI	OSIZWENI	

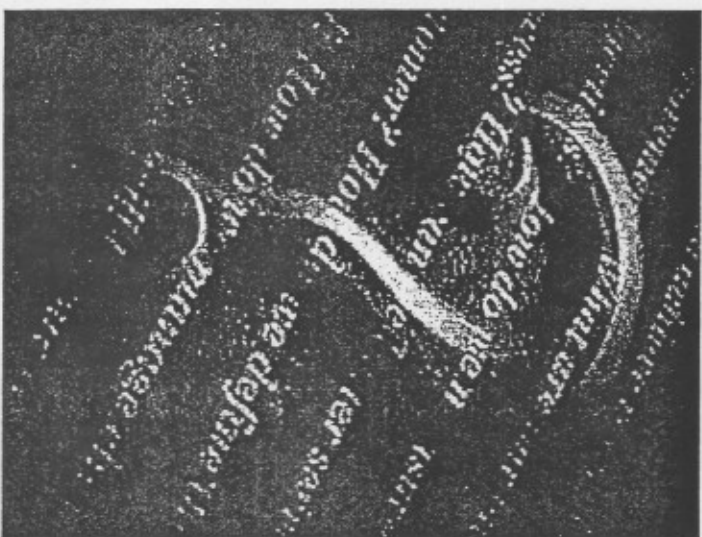
## Consequences of repealing §6, and proclamations/regulations made under §25 & §30 of Act 38/1927

- It is doubtful whether registrations in townships established under Section 30(1) of Act 38/1927 can continue once §6, as well as the proclamations / regulations made under §25 & §30 of Act 38/1927 have been repealed.
- The repeal of § 6 of Act 38/1927 can be remedied by legislation before the Communal Land Rights Act is brought into operation or may be suspended from coming into operation until such time as the issue has been suitably addressed.
- It's clear that Proc R293/1962 and GN R403/1988 are still operative in everyday use in the Deeds Offices. In 2005, 4802 transfers, 2607 mortgage bonds and 2631 cancellations were registered, in PMB.
- The repeal as contemplated by § 1(6) of the Repeal of BAA Bill would disadvantage those members of the community who are already in possession of limited rights.

# Proposals on the way forward

- Out of **119** Proc R293/1962 (Ulundi) townships, only **82** townships have not been upgraded.
- Out of **35** Proc R29/1988 (DDA) townships, **27** townships have not been upgraded.
- These townships/rights must be **upgraded** in terms of Act 112/1991, before 31 July 2006.
- The Minister for Land Affairs in terms of § 1(1)(a)(iv) of Act 47/1937 or the State President in terms of the Constitution may issue a Proclamation dealing with upgrading of these townships or transitional provisions.
- There may be challenges and unintended consequences.

Thank you



## ANNEXURE F

### SUMMARY OF INPUT RECEIVED; NATIONAL GOVERNMENT DEPARTMENTS/AUTHORITIES: SUBORDINATE LEGISLATION CONTEMPLATED IN CLAUSE 1(6) OF THE REPEAL OF BLACK ADMINISTRATION ACT, AND AMENDMENT OF CERTAIN LAWS BILL, 2005

#### 1. Department in the Presidency

No provisions of the subordinate legislation are administered by the Department in the Presidency. No unintended consequences brought about by the repeal thereof or functions performed in terms thereof have been reported.

#### 2. Department of Agriculture

The repeal of the Black Administration Act, 1927 (Act No. 38 of 1927) ("the BA Act"), will not have any adverse impact on the Department of Agriculture. Subordinate legislation have been repealed or assigned to the Provinces.

#### 3. Department of Arts and Culture

None of the legislation of the Department of Arts and Culture will be affected by the repeal of the subordinate legislation. No unintended consequences will arise as a result of such repeal.

#### 4. Department of Communications

The Department of Communications does not administer any of the subordinate legislation. No unintended consequences brought about by the repeal thereof or functions performed in terms thereof have been reported.

**5. Department of Education**

Education is not affected by the repeal of the subordinate legislation. Initiation schools follow traditional cultural practices and do not form part of the official school system. The Department of Education has repealed all outdated legislation on education and the education system is functioning in terms of legislation enacted after 1994.

**6. Department of Environmental Affairs and Tourism**

No unintended consequences brought about by the repeal of the subordinate legislation or functions performed in terms thereof have been reported.

**7. Department of Foreign Affairs**

The legislation administered by the Department of Foreign Affairs does not fall within the purview of the subordinate legislation. The repeal of the subordinate legislation does not affect the Department of Foreign Affairs.

**8. Department of Health**

No provisions of the subordinate legislation are administered by the Department of Health. No unintended consequences brought about by the repeal of the subordinate legislation or functions performed in terms thereof have been reported.

**9. Department of Home Affairs**

There is no subordinate legislation promulgated under sections 25, 30(2) or 30A of the BA Act which was in force prior to the commencement of the Abolition of Racially Based Land Measures Act, 1991, and administered by

the Department of Home Affairs. No unintended consequences brought about by the repeal of the subordinate legislation or functions performed in terms thereof have been reported.

**10. Department of Justice and Constitutional Development**

Two sets of the subordinate legislation, namely Proclamation R34 of 1996 and paragraph B of Proclamation R103 of 1973 have already been repealed. It seems as if Proclamation 283 of 1931, Proclamation R201 of 1967 and the remainder of Proclamation R103 of 1973 have been rendered obsolete by the coming into operation of the Constitution. The Department of Justice and Constitutional Development does not foresee any unintended consequences that may be brought about by their repeal.

**11. Department of Labour**

No unintended consequences brought about by the repeal of the subordinate legislation or functions performed in terms thereof have been reported.

**12. Department of Public Service and Administration**

The Department of Public Service and Administration confirmed that the repeal of the subordinate legislation will not result in any unintended consequences.

**13. Department of Public Works**

The Department of Public Works has, upon investigation, not uncovered any subordinate legislation administered by it, that emanates from the BA Act and does not foresee any unintended consequences for its activities brought about by the repeal of any of the subordinate legislation. It does not appear to be necessary for the Department of Public Works to repeal or amend existing legislation or to enact new legislation in view of the repeal of the BA Act.

**14. Department of Science and Technology**

The Department of Science and Technology reported that none of the subordinate legislation is administered by it. It is not aware of any unintended consequences brought about by the repeal of the subordinate legislation.

**15. Department of Social Development**

None of the provisions of the subordinate legislation is administered by the Department of Social Development. No unintended consequences arising out of the repeal of the subordinate legislation has been reported.

**16. Department of Trade and Industry**

The Department of Trade and Industry wishes to advise that it does not administer any of the provisions of the subordinate legislation. No unintended consequences arising out of the repeal of the subordinate legislation has been reported.

**17. Department of Transport**

The finding of the Department of Transport is that it does not have any legislation enabled by the BA Act. Functions are no longer performed in terms of the Transvaal Road Traffic Ordinance, 1966, in Mpumalanga because the Mpumalanga Road Traffic Act is now in place. It is not aware of any vacuum that will be created by the repeal of the subordinate legislation.

**18. Department of Water Affairs and Forestry**

New legislation was enacted after 1994 by the Department of Water Affairs and Forestry to deal with the consequences of the repeal of the subordinate legislation. It does not foresee any legal vacuum arising out of such repeal.



**19. National Intelligence Agency**

The repeal of the subordinate legislation will not create a legal vacuum with regard to the National Intelligence Agency.

**20. National Treasury**

The National Treasury is not aware of any of the subordinate legislation administered by it. No unintended consequences brought about by the repeal of the subordinate legislation or functions performed in terms thereof have been reported.

**21. Public Service Commission**

The repeal of the BA Act and the subordinate legislation will have no influence on the execution of the constitutional mandate of the Public Service Commission. No unintended consequences brought about by the repeal of the subordinate legislation or functions performed in terms thereof have been reported.

**22. South African Police Service**

No unintended consequences brought about by the repeal of the subordinate legislation or functions performed in terms thereof have been reported.

**23. South African Revenue Service**

No provisions of the subordinate legislation administered by the South African Revenue has been identified. No unintended consequences brought about by the repeal of the subordinate legislation or functions performed in terms thereof have been reported.

**24. South African Secret Service**

No subordinate legislation premised on section 25 of the BA Act is used by the South African Secret Service in furtherance of its activities. No unintended consequences brought about by the repeal of the subordinate legislation have been reported.

**25. Sport and Recreation South Africa**

Sport and Recreation South Africa does administer any of the subordinate legislation. It is not aware of any unintended consequences brought about by the repeal of the subordinate legislation.

## **GAUTENG**

Gauteng Province indicates that the only subordinate legislation administered by the province is the Land Use and Planning Regulations. The office of the Premier has submitted our correspondence to the Gauteng Department of Local Government for them to respond on the unintended consequences that can be brought about by the repeal of the BAA. Dplg has also liased with the Department of Local Government and is still working on the report.

## **MPUMALANGA**

The Mpumalanga Province has two pieces of subordinate legislation that are currently in operation. Such subordinate legislation will have been repealed by provincial legislation by 30 April 2006.

Limpopo Province has acknowledged receipt of our correspondence and requested an indulgence until 20 January 2006. We are still waiting for its response.

Reports from other provinces are still outstanding and a follow up is being made on a weekly basis