

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

**ASSENTED TO 22 JUNE 1977
DATE OF COMMENCEMENT: 1 SEPTEMBER 1985**
(English text signed by the State President)

as amended by

Standards Act, No. 30 of 1982
With effect from 1 May, 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
With effect from 15 January 1997

GENERAL NOTE

Section 99 of Act No. 29 of 1996 substitutes the expression “Chief Inspector as contemplated in the Mine Health and Safety Act, 1996” for the expression “Government Mining Engineer” wherever it occurs in this Act.

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.

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;
 - (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;

“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”

“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;

“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) 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;

“Minister” means the Minister of Economic Affairs and Technology;

“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. 18 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 therefore;

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

“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);

“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;

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

“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);

“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;

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

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.

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.

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;
 - (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:

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, 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.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

(6) (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.

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.
- (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.

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 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 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.

(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.

(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.

(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.

- (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.

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.
- (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.

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, passages, 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.

(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.

(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.

(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.

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.

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.