

## TOWN AND COUNTRY PLANNING (AMENDMENT) ACT, 1972

No. 26



of 1972

### ARRANGEMENT OF SECTIONS

#### SECTION

1. Short title and commencement
2. Amendment of section 14 of Proclamation No. 33 of 1961
3. Amendment of section 16 of Proclamation No. 33 of 1961
4. Insertion of new section 16A into Proclamation No. 33 of 1961
5. Insertion of new section 19A into Proclamation No. 33 of 1961

### AN ACT TO AMEND THE TOWN AND COUNTRY PLANNING PROCLAMATION, 1961.

*Date of Assent:* 18.10.1972

*Date of Commencement:* 3.11.72

ENACTED by the Parliament of Botswana.

**1.** (1) This Act may be cited as the Town and Country Planning (Amendment) Act, 1972 and shall be read and construed as one with the Town and Country Planning Proclamation, 1961, hereinafter referred to as the principal law.

Short title  
and com-  
mencement

(2) This Proclamation shall come into operation on such date as the President may, by notice in the Gazette, prescribe.

**2.** Section 14 of the principal law is amended by the deletion of subsections (4) and (5) thereof.

Amendment  
of section 14  
of Proc-  
lamation No.  
33 of 1961

Amendment  
of section 16  
of Procla-  
mation No.  
33 of 1961

Insertion of  
new section  
16A into  
Proclamation  
No. 33 of  
1961

**3.** Section 16 of the principal law is amended in subsection (4) by the addition immediately after the words "the Board shall" appearing therein of the words, "if it is satisfied that section 16A has been complied with,".

**4.** The principal law is amended by the insertion therein, immediately after section 16, of the following new section —

"Restriction  
on power of  
Board to  
forward  
scheme

16A. (1) Notwithstanding the fact that an establishment scheme has complied with the provisions of section 14, the Board shall not forward to the President under section 16 (4) but shall return to the applicant as disapproved any scheme submitted to it unless —

- (a) such scheme has made provision, without payment, for the setting aside of a commonage for the use and benefits of the inhabitants of the township and other land for the use of the local authority for such public purposes as may from time to time be approved by the President on the advice of the Board;
- (b) the applicant has undertaken, if the Board considers it desirable, that instead of provision for commonage as specified under paragraph (a) that he shall make a payment in cash to be used by the local authority for the provision of commonage in areas adjacent to the township but outside it or for such other public purposes as may from time to time be approved by the President on the advice of the Board, of such sum of money as the local authority may determine;
- (c) the scheme is consistent with the provisions of any town planning scheme which may be in force under Part IV in relation to the land on which the township is situated;
- (d) the applicant has undertaken to provide at his own expense adequate water supplies, drainage, connecting roads, lighting, mains sewerage and other ancillary services for the township;

- (e) the scheme provides for the division of the township so that, if the township is adjacent to other urban areas that contain low, medium and high cost housing in balanced proportions, such scheme for the township will provide land for housing in the like balanced proportions, or, if the township is not adjacent to any other urban areas that it will provide for land for housing of low, medium and high cost in such balanced proportions, or, if the township is adjacent to or abuts upon any urban area where there is a disbalance between the proportions of low, medium and high cost housing that the scheme will provide land for housing in such proportions that when the housing provided is considered together with the housing in the adjacent or abutting urban area there will be overall a balanced proportion of low, medium and high cost housing;
- (f) the applicant has undertaken to sell plots for the construction of houses at prices not exceeding such maximum prices as may from time to time be prescribed by the President who shall in prescribing the price take into consideration the undeveloped agricultural cost of the land, the cost of the services which have been provided on such land together with such percentage of the cost of the services provided, as shall not exceed by 2 per cent the minimum commercial lending rate of interest charged from time to time on loans to established and responsible commercial borrowers by the commercial banks registered in Botswana; and
- (g) the applicant has undertaken not to impose any restrictive covenant, other than a covenant to develop, which is not required to be imposed by the provisions of any town planning scheme which may be in force

under Part IV in relation to the land on which the proposed township is situated.

(2) For the purposes of this section the phrase "low, medium and high cost housing" shall have such meaning as may be assigned from time to time by those words by regulations made under section 26."

Insertion of  
new section  
19A into  
Proclamation  
No. 33 of  
1961

5. The principal law is amended by the insertion, immediately after section 19, of the following new section —

"Penalties 19A. Any applicant who having submitted a scheme which has made provision for the matters contained in section 16A or has given an undertaking in terms of any of the undertakings required to be provided in terms of section 16A and who fails to develop the private township in accordance with such provisions or who fails to keep any of the undertakings which he has made shall be guilty of an offence and shall in respect of each separate failure or breach of undertaking be liable to a fine of R2,000."

Passed by the National Assembly this 19th day of September, 1972.

I.P. GONTSE,  
*Clerk of the National Assembly.*