

PLANNING AND DEVELOPMENT ACT, 2019–5

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AMENDMENTS

BARBADOS

I assent
S. MASON
Governor-General
12th February, 2019.

2019–5

An Act to make provision for

- (a) the orderly and progressive development of land;
- (b) for the grant of permission to develop land;
- (c) powers to regulate land use and development; and
- (d) related matters.

[Commencement: by Proclamation]

ENACTED by the Parliament of Barbados as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the *Planning and Development Act, 2019*.

Interpretation

- 2.(1) In this Act,

“advertisement” means any word, letter, model, sign, placard, board, notice, banner, awning, blind, balloon, device or representation, whether illuminated or not, in the nature of and employed wholly or in part for the purpose of advertisement, announcement or direction, or calling attention to any person, matter, object or event, and without prejudice to the foregoing, includes any hoarding, billboard, wall, fence, or similar structure used, adapted, designed or intended for use for display of advertisements and references to the display of advertisements shall be construed accordingly;

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock or poultry (including any animal kept for the production of food, wool, skins or fur or for the purpose of its use in farming the land), the use of land as grazing land, meadow land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, but does not include the use of land for aquaculture;

“amenity notice” means a notice served pursuant to section 61;

“Appeal Panel” means the panel appointed under section 89;

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- “aquaculture” includes the breeding, rearing or keeping of fish, shellfish, or any other aquatic and marine flora and fauna, which involves the placing or assembly of any pen, cage, tank, pond or any other structure in, on or over any land for the purposes of aquaculture or mariculture;
- “Barbados National Trust” means the non-profit body corporate established by the *Barbados National Trust Act, 1968*, Cap. 58;
- “beach” has the meaning assigned to it in the *Coastal Zone Management Act*, Cap. 394;
- “beach material” includes sand, shells, coral fragments, stones, gravel, boulders or other unconsolidated material, comprising a beach;
- “Board” means the Planning and Development Board established by section 5;
- “builder” means a person engaged as a contractor or otherwise in the erection, construction, alteration, improvement, maintenance or repair of buildings or in works incidental to any of the foregoing;
- “building” includes any permanent or temporary structure or erection in, on, over or under any land, whether affixed to the land or not, and any part of a building so defined, but does not include plant or machinery comprised in a building;
- “building operations” includes rebuilding operations, structural alterations of or additions to buildings and other operations normally undertaken by a person carrying on business as a builder;
- “building or works” includes waste materials, refuse and any other matter deposited on land, and references to the construction of building or works shall be construed accordingly;
- “change in the use of land” means the use of a building or land for a purpose other than that for which the building or land was previously used;
- “Chief Town Planner” means the Chief Town Planner referred to in section 9;

- “clearing” in relation to land, means the demolition of buildings or parts thereof, the removal of materials from land, the removal of top soil, the leveling or grading of the surface of the land, and the carrying out of such other operations in relation thereto as may be prescribed;
- “clerk” means the clerk of the Tribunal designated in accordance with section 88;
- “completion notice” means a notice given pursuant to section 41(2);
- “compliance certificate” means a certificate given pursuant to section 100;
- “Cultural heritage preservation order” means an order made by the Minister pursuant to section 53;
- “demolition” includes operations to tear down a building or any part thereof;
- “Department” means the Planning and Development Department constituted in accordance with section 8;
- “designation order” means an order made by the Minister pursuant to section 57;
- “development” has the meaning assigned to it by section 20, and “develop” has a corresponding meaning;
- “development order” means an order made by the Minister pursuant to section 23;
- “duplex dwelling” means a building divided either horizontally or vertically and used, constructed or adapted to provide accommodation for 2 dwelling units;
- “dwelling house” means a building used, constructed or adapted for use as a single dwelling unit, including any structure attached or appurtenant thereto within the curtilage of that building that is used for any purpose incidental to the enjoyment of the dwelling house as a dwelling unit;

“dwelling unit” means a building, or self-contained part of a building, used or constructed or adapted to be used for human habitation by a single individual or household;

“engineering operations” includes the preparation of land for carrying out development, the clearing of land, the laying out, building and maintenance of roads, drains, runways, bridges, the construction of coastal defence works, the dredging of watercourses or channels, the filling in of any depression or excavation and the reclamation of land from the sea;

“enforcement notice” means a notice issued under section 69;

“environment” means the components of the earth and includes:

- (a) air, land and water;
- (b) all layers of the atmosphere;
- (c) all organic and inorganic matter and living organisms, including human beings; and
- (d) the interacting natural systems that include components referred to in paragraphs (a) to (c);

“environmental impact assessment” means an examination, analysis and evaluation of the foreseeable impacts of a proposed development on the environment, with the objective of ensuring sustainable development;

“environmental impact statement” means the document or series of documents which contain the environmental impact assessment and which identifies the means to avoid or mitigate predicted adverse environmental impacts, and to offset any residual adverse environmental impacts that cannot be avoided or mitigated;

“erection” in relation to buildings, includes extension, alteration and re-erection;

“foreshore” means land lying between the line of the mean high water mark of ordinary tides and the line of the mean low water mark of spring tides;

“Heritage Conservation Area” means an area designated as such in a designation order;

“initial environmental evaluation” means a preliminary level of environmental impact assessment conducted primarily by using available information;

“interim listing order” made in accordance with section 55;

“land” means any corporeal hereditament, including a building as defined in this section, and includes land covered by water, the foreshore and the sea-bed underlying the territorial waters, and in relation to the acquisition of land under Part IX includes any interest in or over land;

“layout plan” means a detailed plan showing the manner in which a parcel of land is to be subdivided and used;

“listed building, monument or site” means a cultural heritage building, monument or site listed in a Cultural Heritage Preservation Order made under section 53;

“means of access” includes any road or other means of access for vehicles or pedestrians, whether private or public;

“mineral” means any substance in liquid, solid or gaseous form occurring naturally on, in or under land and formed by or subject to a geological process, but does not include water;

“mining operation” includes

- (a) carrying out in relation to any mineral or beach material, any activity with a view to excavating, working, extracting, carrying away, treating or converting that mineral;
- (b) prospecting, searching or exploring for any mineral with a view to carrying out any activity mentioned in paragraph (a) and carrying out any work for the purposes of prospecting, searching or exploring for any mineral; and

(c) depositing any waste or refuse materials on land in consequence of or incidental to any activity mentioned in paragraph (a) or (b);

“owner” in relation to any land includes a person who is for the time being the registered proprietor or lessee of the parcel of land and a person, other than a mortgagee in possession, who, whether in their own right or as a trustee or agent of any other person, is entitled to receipt of the rents and profits, or where the land is not let at a rent, would be so entitled if it were so let;

“Permanent Secretary” means the Permanent Secretary of the Ministry to which responsibility for planning and development is assigned;

“permitted development” means development which is authorised by a development order made under section 23;

“physical development plan” means any land use plan prepared under Part III and includes any modification or amendment thereof, and “plan” means a physical development plan where the context so admits;

“planning control” means the entire system of the regulation of use and development of land provided for by this Act including the provisions of Part IV, Part VIII, and Part XII;

“President” means the President of the Tribunal appointed pursuant to section 86(2);

“protected area declaration order” means an order made in accordance with section 58;

“referral agency” means a Ministry or department of Government or statutory body to which applications for planning permission are routinely or occasionally referred for technical advice;

“registered professional architect” means an architect registered under the *Architects Registration Act*, Cap. 366;

“registered professional engineer” means an engineer registered under the *Engineers (Registration) Act*, Cap. 368B;

“road” means any road whether public or private, and includes any street, square, court, alley, lane, bridge, footway, trace, bridle path, right of way, passage or highway, whether a thoroughfare or not;

“statutory undertaker” means a person authorised by any Act to carry on any road, transport, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of electricity, telecommunications, gas, hydraulic power or water, or the provision of sewage collection, treatment and disposal services, and “statutory undertaking” has a corresponding meaning;

“stop notice” means a notice issued under section 71;

“subdivision” in relation to land means the division of any piece or parcel of land (other than buildings) held under single ownership into two or more parts, whether such division is by conveyance, transfer, lease or any other instrument, for the purpose of sale, gift, succession, partition, mortgage, the registration of title by adverse possession or for any other purpose, and “subdivide” has a corresponding meaning;

“territorial waters” means the territorial waters of Barbados as defined by the *Barbados Territorial Waters Act*, Cap. 386;

“Tribunal” means the Appeals Tribunal appointed pursuant to section 86;

“tree preservation order” has the meaning assigned to it by section 59:

“use” in relation to land, does not include the use of land by the carrying out of any building or other operations thereon; and

“waste material” includes garbage, refuse, spoil, mineral tailings, sludge, effluent and anything of whatever kind which has the appearance of being material abandoned, discarded or intended to be abandoned or discarded by the owner or former owner thereof, or the only value of which appears to be as scrap or for the utilization of parts thereof or the extraction of the residue of the substance of which it formerly formed part.

(2) For the avoidance of doubt, in this Act any reference to a road refers not only to the carriageway or that part of the road that is usually reserved for use by

wheeled vehicles or pedestrians, but all land within the road reserve, that is to say, all land within the boundaries of the road reserved for the purpose of shoulders, curbs, footways, verges, bridges, culverts, drainage or other road works.

(3) Where pursuant to this Act or any statutory instrument any directions are given by the Minister to the Board or the Chief Town Planner, those directions shall be published in the *Official Gazette*.

Purposes of the Act

- 3.(1) The purposes of this Act are to provide for
- (a) the facilitation of land development in Barbados, taking account of all relevant social, economic and environmental factors, so as to ensure that sustainable use is made of public and private land in the interests of present and future generations of the people of Barbados;
 - (b) the attainment of appropriate standards for land use and development, which promote the health and well-being of people in Barbados, protect the natural and cultural heritage, and preserve and improve the amenity of the country;
 - (c) efficiency and accountability by public authorities whose function it is to regulate the use and development of land in Barbados in the interests of safeguarding the rights of others and the public interest;
 - (d) the participation of all concerned persons in decision-making with respect to the use and development of land in Barbados, including appropriate access to information held by public authorities in relation to the administration of this Act, and the opportunity to participate in decision-making processes; and
 - (e) effective access to administrative and judicial proceedings, including redress and remedy, for persons aggrieved by the performance of duties and the exercise of powers conferred by or under this Act.

(2) In implementing, applying and interpreting this Act, all persons shall have regard to and use their best efforts to further the purposes of this Act and give a broad and purposive interpretation to the matters set out in subsection (1).

PART II

ADMINISTRATION

Duties of the Minister

4.(1) The Minister shall ensure efficiency and transparency in the administration of this Act and, in the exercise of the statutory powers conferred on the Minister by the Act, may do all things necessary for the purpose of carrying out this duty.

(2) In addition to the other duties imposed and powers conferred on the Minister by this Act, the Minister is responsible for the framing and execution of comprehensive policies with respect to the use and development of all land in Barbados in accordance with a development plan prepared pursuant to Part III.

(3) The Minister shall be guided, in the exercise of the functions conferred on the Minister by this Act, by the principle that the provisions of this Act shall be applied fairly and equitably to all persons.

Establishment of the Planning and Development Board and its Constitution

5.(1) There is established a Planning and Development Board to carry out the functions conferred upon it by this Act.

(2) The Board is a body corporate with perpetual succession and a common seal.

(3) The Board may sue and be sued in its own name.

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- (4) The Board is responsible for the implementation of the policies framed by the Minister under section 4 and shall act in accordance with directions of a general character which may be given by the Minister as to the policy to be followed in the exercise of its functions.
- (5) The Board shall consist of the Chief Town Planner and 12 persons appointed in accordance with this section,
- (a) a Chairperson, not being a person in the service of the Government of Barbados, appointed by the Minister;
 - (b) four *ex officio* members,
 - (i) the Chief Technical Officer of the Ministry responsible for Public works;
 - (ii) the Chief Technical Officer of the Ministry responsible for Agriculture;
 - (iii) the Director of the Coastal Zone Management Unit; and
 - (iv) the Director of the Department responsible for Environmental Protection;
 - (c) one member appointed by the Minister on the recommendation of the Barbados National Trust;
 - (d) two members appointed by the Minister after consultation with the professional bodies representing professional land use planners, architects, engineers and land surveyors; and
 - (e) four members appointed by the Minister, drawn from the legal profession, financial institutions, the private business sector, academia or non-governmental organisations, having knowledge and experience of matters relevant to land development.
- (6) The Chief Town Planner serves *ex officio* as Executive Secretary to the Board, and shall participate in the deliberations of the Board and vote on the decisions of the Board.

- (7) A member appointed by the Minister, including the Chairperson, shall serve for a period not exceeding 3 years in the first instance, and is eligible for reappointment, provided that no such person may hold office for a period of longer than 6 consecutive years.
- (8) The Minister may at any time revoke the appointment of any appointed member, including the Chairperson.
- (9) The names of the members of the Board as first constituted and every change of membership thereafter shall be published in the *Official Gazette*.

Procedure of the Board

- 6.(1) The Board shall meet at least once every month and at such other times as may be necessary or expedient for the transaction of its business, at such places and times and on such days as the Board may determine.
- (2) The Chairman shall convene a special meeting of the Board within 3 days of receipt of a requisition for that purpose in writing signed by the Executive Secretary, and on any other occasion when directed in writing by the Minister so to do.
- (3) The Chairman presides at meetings of the Board at which he or she is present and, in the absence of the Chairman, a meeting shall be chaired by a member elected by the majority of members present.
- (4) The quorum for a meeting of the Board is 7 members, but if any member is disqualified from taking part in any deliberation or decision of the Board pursuant to subsection (12), that member is disregarded for the purpose of forming a quorum.
- (5) Where any *ex officio* member of the Board is unable to attend any meeting of the Board due to an absence from office, the officer acting in that officer's position attends the meeting of the Board in that officer's stead.
- (6) In the event of the temporary incapacity or temporary absence from Barbados of an appointed member of the Board, the Minister may appoint another

person to act as a temporary member in that member's stead for so long as the incapacity or absence continues.

(7) The validity of the proceedings of the Board are not affected by any vacancy amongst the members or by any defect in the appointment of any appointed member, including the Chairperson.

(8) The members of the Board, including *ex officio* members, shall be paid such allowances for attendance at meetings of the Board and committees of the Board as the Minister determines.

(9) The Board is responsible for the proper performance of the functions and duties assigned to it under this Act, and the exercise of the powers conferred upon it by this Act, but may for those purposes consult with or obtain advice from such other authorities, persons or bodies of persons as it thinks fit.

(10) The Board may appoint such standing or *ad hoc* committees or working groups as it thinks fit to assist in the performance of its functions.

(11) A decision of the Board is taken by the vote of the majority of members present and voting but, in a case of an equality of votes on a question to be decided by the Board, the person presiding at the meeting has in addition to an original vote a second or casting vote on that question.

(12) A member of the Board who is in any way, either directly or indirectly, personally or by their spouse, domestic partner or other near relative, business associate or company, interested in any matter whatsoever with which the Board is concerned, shall at the commencement of the meeting where that matter arises disclose that interest, and shall vacate the meeting room upon the matter coming up for discussion; and the disclosure made by the member and the member's withdrawal from the meeting room shall be recorded in the minutes of the meeting.

(13) Minutes of each meeting of the Board shall be taken in proper form and kept by the Executive Secretary, and confirmed by the Board at its next meeting.

(14) The minutes of meetings of the Board are public documents and shall be made available for perusal by any member of the public in documentary form at the office of the Department and in electronic form on the internet.

(15) Subject to the foregoing provisions of this section, the Board has the power to regulate its own proceedings.

Applications to be determined by the Board

7.(1) The Board is responsible for the determination of all applications for planning permission, other than applications referred to the Minister pursuant to section 33.

(2) Notwithstanding the provisions of section 10, the Board shall not delegate to the Chief Town Planner its power to determine applications for planning permission for complex development projects of any class specified in the *First Schedule*.

Planning and Development Department

8.(1) There shall be a Department of Government to be known as the Planning and Development Department

- (a) headed by a Chief Town Planner who shall be a public officer; and
- (b) such number of planning officers and other staff as may be appointed or designated to assist the Minister and the Board in the administration and enforcement of this Act.

(2) The Chief Town Planner, planning officers and staff referred to in subsection (1) shall,

- (a) prepare or cause to be prepared draft physical development plans for approval in accordance with Part III of this Act;
- (b) review and evaluate all applications submitted under Part IV of this Act;

- (c) review documents submitted in support of applications, carry out site inspections, coordinate with referral agencies, conduct public consultations and facilitate the carrying out of environmental impact assessments and other required studies in connection with the foregoing function;
- (d) make recommendations to the Board or the Minister with respect to the exercise of their powers to determine applications for planning permission, pursuant to section 32 or section 33, as the case may be;
- (e) carry out inspections for the purpose of detecting and initiating enforcement action with respect to breaches of planning control;
- (f) issue such notices, certificates and other statutory documents as are directed by the Minister or the Board or authorised by this Act; and
- (g) provide the Minister or the Board such data, reports and other information concerning the performance of their duties as the Minister or the Board may from time to time require.

Duties of the Chief Town Planner

9.(1) The Chief Town Planner is responsible to the Minister for the administration and operation of the system of physical development planning and regulation of land development for which this Act provides.

(2) It is the duty of the Chief Town Planner, as the Executive Secretary of the Board, to

- (a) list all pending applications for determination by the Board on the agenda;
- (b) ensure that every application listed for determination by the Board has been processed and assessed by the Department in a thorough manner within the time limits set by this Act and that all the documentation pertaining to each application is complete;

- (c) within 5 working days of the date of the decision, give notice to the applicant of the decision made on every application determined by the Board;
 - (d) set the agenda for meetings of the Board and give notice to members of the date, time and place at which such meetings are scheduled to take place; and
 - (e) issue to every member of the Board all papers to be considered by the Board at its next meeting, including complete documentation relating to every application to be decided by the Board, at least 48 hours before the date and time of the meeting.
- (3) For the avoidance of doubt, it is hereby declared that all notices, documents and communications, related to meetings of the Board, including but not limited to plans, application forms and other documents related to applications for planning permission, may be kept in an electronic data storage and retrieval system and transmitted by the Executive Secretary to members of the Board and other recipients by electronic mail.
- (4) The Chief Town Planner shall sign and issue all notices granting or refusing permission for the development of land, enforcement notices and stop notices and other documents authorised by the Board to be issued under the provisions of this Act.

Delegation

- 10.(1)** Subject to this Act, the Board may, with the prior approval of the Minister, delegate to the Chief Town Planner, either generally or as otherwise provided by the instrument of delegation, any power or duty conferred or imposed on the Board by this Act, other than this power of delegation.
- (2) The Board may give directions to the Chief Town Planner to whom it has delegated a power or duty with respect to the exercise of that power or the performance of that duty and the Chief Town Planner shall comply with any such directions.

(3) Subject to the prior approval of the Board, any functions assigned to the Chief Town Planner by or under this Act, may be performed either generally or specially by any planning officer authorised by the Chief Town Planner in writing in that behalf.

Limitation of personal liability

11. The Minister, the Board, a member of the Board, a member of the Appeal Tribunal, the Chief Town Planner or any other public officer may not be held personally liable in any court for or with respect to any act or matter done, or omitted to be done, in good faith in the exercise or purported exercise of any function or power conferred by this Act.

PART III

PHYSICAL DEVELOPMENT PLANS

Physical development plan for Barbados

12.(1) It is the duty of the Chief Town Planner to prepare or cause to be prepared a physical development plan for Barbados as a whole for approval by Parliament in accordance with the provisions of this Part.

(2) Where an approved physical development plan for Barbados as a whole is in force, it is the duty of the Chief Town Planner to review and revise it, or cause it to be reviewed and revised, in accordance with the provisions of this Part.

Physical development plans for parts of Barbados

13.(1) At any time after the physical development plan for the whole of Barbados has been approved, the Chief Town Planner may prepare or cause to be prepared a draft physical development plan for any specified part of Barbados, or adopt, with or without variations, such a plan proposed by a community situated in the area or any person or organisation who has an interest in the area.

(2) A draft physical development plan prepared for a specified part of Barbados shall conform to the prescriptions of the approved physical development plan Barbados as a whole, as revised from time to time.

Contents of physical development plans

14.(1) A physical development plan prepared for approval under this Act shall

- (a) set out prescriptions for the use and development of land which represent the results of an integrated planning process; and
- (b) include such maps and descriptive matter as may be necessary to illustrate the proposals made in it with such degree of detail as is appropriate to Barbados as a whole or the specified part of Barbados to which the plan relates.

(2) A physical development plan may

- (a) allocate land for use for residential, industrial, commercial, tourism, conservation, agricultural or other purposes of any class specified in the plan;
- (b) make provision for the development of infrastructure, public buildings, open spaces and other public sector investment works; and
- (c) prescribe for any of the matters set out in the *Second Schedule*.

Preparation of physical development plans

15.(1) In the course of preparation of a draft physical development plan the Chief Town Planner shall consult with any governmental or non-governmental organisations, including the private sector, with an interest in the matters for which proposals may be made in the plan or policy document.

(2) Without prejudice to the generality of subsection (1), in the course of preparation of a draft physical development plan, the Chief Town Planner shall have regard to the policies, strategies and standards for the management and

conservation of coastal resources in a Coastal Zone Management Area, established under the *Coastal Zone Management Act*, Cap. 394, made under a Coastal Zone Management Plan approved in accordance with that Act.

(3) Before finalising the contents of a draft physical development plan the Chief Town Planner shall take reasonable steps to ensure that

- (a) adequate publicity is given to the matters concerning which proposals will be made in the plan in the area to which it relates; and
- (b) persons who may wish to make representations with respect to those matters are invited and given an adequate opportunity to make representations concerning those matters.

Approval of physical development plan

16.(1) When a draft physical development plan has been prepared, copies shall be made available for public inspection at the offices of the Department and such other places as the Chief Town Planner considers appropriate for bringing it to the attention of persons who are likely to be affected, directly or indirectly, by the proposals in the plan, and an electronic copy of the draft plan shall be published on the internet.

(2) The Chief Town Planner shall give notice in the *Official Gazette* and at least one newspaper in daily circulation in Barbados of the places where and times when the draft physical development plan may be inspected and shall give such other publicity to the matter as is appropriate to inform the public in general, and particularly persons whose interests are likely to be affected, directly or indirectly, by the proposals in the plan, of their right to submit comments in writing to the Chief Town Planner with regard to the proposals in the draft physical development plan, by or before the date specified in the notice.

(3) The Chief Town Planner shall receive written comments on the draft physical development plan for not less than 28 days from the date of publication of the notice in the *Official Gazette*.

(4) After the expiry of the period specified in the notice published in accordance with subsection (3) for the making of written comments on a draft physical development plan, the Chief Town Planner shall consider any comments made by the public and forward a report on them, together with the Chief Town Planner's own observations, to the Minister as soon as practicable.

(5) Where the Minister determines that there is sufficient public interest in the draft physical development plan, the Minister may appoint a person to hold a public hearing to discuss the draft physical development plan and receive verbal comments with regard to the proposals therein, before accepting the draft plan, with or without modifications, or rejecting the plan.

(6) After considering

- (a) the draft physical development plan;
- (b) the report of the Chief Town Planner on the public comments;
- (c) the observations of the Chief Town Planner on the public comments;
- (d) the report from the person who held the public hearing as referred to in subsection (5)

the Minister may accept the draft plan, with or without modifications, or reject the plan.

(7) Where the Minister accepts the draft physical development plan, within one year from the date on which notice is published in the *Official Gazette* pursuant to subsection (3), the Minister shall lay the draft plan for approval by both Houses of Parliament.

(8) The draft plan is subject to affirmative resolution of both Houses of Parliament.

(9) When a physical development plan is approved by both Houses of Parliament, the Minister shall publish a notice of the approval in the *Official Gazette* and the plan comes into operation from the date of publication, or such later date as may be prescribed in the notice.

(10) The Chief Town Planner shall make documentary copies of an approved physical development plan available for sale to the public at a reasonable price and shall make an electronic copy of the approved plan available *via* the internet.

Review and revision of physical development plans

17.(1) The Minister may at any time require the Chief Town Planner to carry out a review of an approved plan and submit a report on that review together with proposals for any alterations or additions to the plan which appear to be appropriate.

(2) Without prejudice to the generality of subsection (1), at least once in every 10 years after the date on which a physical development plan for the whole of Barbados comes into operation, the Chief Town Planner shall carry out a review and report on the plan as stated in subsection (1).

(3) The provisions of this Part with respect to the preparation and approval of a physical development plan apply *mutatis mutandis* to the preparation and approval of any modification to or revision of a physical development plan.

Status of physical development plan

18.(1) Where a physical development plan or an amendment to a physical development plan has been approved by Parliament

- (a) every public officer shall have due regard to, and so far as is practicable, be guided by the plan in formulating and preparing any public sector investment project;
- (b) the Board shall give principal consideration to and be guided by the plan in considering any application for a planning permission; and
- (c) any person exercising a power to grant any fiscal incentive or other form of public sector assistance for the carrying out of any private sector investment project shall ensure that the proposed project is consistent with the plan and has been granted planning permission under this Act, if required.

(2) Where two or more physical development plans have been approved which apply in whole or in part to the same area and there is any conflict or discrepancy between them, then

- (a) the plan drawn to the larger scale has precedence;
- (b) the later plan is deemed to have modified the earlier plan, regardless of the relative scales of the two plans, unless there is an express provision to the contrary.

(3) An approved physical development plan remains in effect until it is rescinded by affirmative resolution of both Houses of Parliament and a notice to that effect is published in the *Official Gazette*.

Planning Policy Documents

19.(1) At any time after the national physical development plan has been approved, the Chief Town Planner may prepare or cause to be prepared supplementary planning policies providing detailed guidance for the implementation of physical development plans and the regulation of land development in Barbados.

(2) Any draft planning policy document shall be published for public comment for a period of no less than 28 days before its approval by the Minister.

(3) After considering the draft planning policy document and any comments received from members of the public with respect thereto, and after consultation with the Board, the Minister may approve a planning policy document, with or without modifications.

(4) The Minister shall cause every approved planning policy document to be published and made available at the Department to members of the public in documentary form at a reasonable price and in electronic form on the internet.

(5) For the avoidance of doubt, it is declared that an approved planning policy document constitutes a material consideration for the purposes of section 32(2).

PART IV

REGULATION OF LAND DEVELOPMENT

Meaning of development

20.(1) Subject to the following provisions of this section, except where the context otherwise requires, “development” means

- (a) the carrying out of building, engineering, mining or other operations in, on, over or under any land;
- (b) the making of any material change in the use of any building or land;
or
- (c) the subdivision of land.

(2) Notwithstanding subsection (1), the following operations or uses of land do not constitute development of land for the purposes of this Act,

- (a) the carrying out in accordance with any regulations or orders made under this Act or any other enactment of works for the maintenance, improvement or other alteration of any building, other than a building to which the public has access, being works which do not materially affect the external appearance of the building;
- (b) the carrying out by or on behalf of the highway authority of any works required for the maintenance or improvement of a road, where the works are carried out within the boundaries of the road;
- (c) the carrying out by statutory undertakers of any works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any road or other land for that purpose;
- (d) the use of any buildings or other land within the curtilage of a dwelling house for any purpose incidental to the enjoyment of the dwelling house as such;

- (e) the use of any land for the purposes of agriculture or forestry, including afforestation, and the use for any agricultural purpose, other than for dairy farming and the breeding and keeping of livestock or poultry, including any animal kept for the production of food, wool, skin or fur or for the purpose of its use in farming the land, or of any building occupied together with land so used; and
 - (f) in the case of buildings or other land which are used for a purpose of any class specified in an Use Class Order made by the Minister under this section, the use thereof for any other purpose of the same class.
- (3) For the avoidance of doubt, it is hereby declared that for the purposes of this section
 - (a) the use as two or more separate dwelling units of any building previously used as a single dwelling house involves a material change in the use of that building and of each part thereof which is so used;
 - (b) the use of any land, other than land within the boundaries of a road, for the siting of any moveable or temporary building, including but not limited to a chattel building, mobile home, trailer, shipping container, crusade or party tent, vendor's stall or van, whether equipped with wheels or not, for more than 28 days, involves a material change in the use of that land;
 - (c) the use for the display of an advertisement of any land or the external part of a building or structure which is not ordinarily used for that purpose, involves a material change in the use of that land or part of the building;
 - (d) the deposit of any waste material on land involves a material change in the use of the land, notwithstanding that the deposit is on land which has been previously used for that purpose, if either the superficial area thereof or the height of the deposit is thereby extended and exceeds the level of land adjoining the site;

- (e) building or engineering operations for or involving the demolition or alteration of a listed building or other monument or the disturbance of a listed site, or involving the demolition or alteration of a building in a Heritage Conservation Area, constitutes development requiring planning permission;
- (f) the carrying out of building, engineering, mining or other operations in, on, over or under any land used for agriculture or forestry, or the subdivision of any such land, involves development of that land; and
- (g) the subdivision of land constitutes development whether or not the use for which the subdivided land is intended constitutes development.

Permission required for development of land

21.(1) Planning permission granted under this Act is required to commence or carry out any development of land in Barbados.

(2) For the purposes of subsection (1), a person is deemed to have commenced the development of land (until the contrary is proved, the burden of which lies on the alleged developer) if that person has commenced the clearing of land, the filling of ponds or wetlands, the laying out of roads or drains, the laying of water pipes, the construction of any building, or any preparatory work which might indicate an intention to improve the land or increase its value or make it in any way ready for any type of development.

(3) Where land is being used temporarily for some purpose, other than the purpose for which it is normally used, planning permission is not required for the resumption of the use of the land for the purpose for which it is normally used.

(4) Where land is normally used for one purpose and was also used on occasions, whether at regular intervals or not, for another purpose, planning permission is not required for the use of the land for that other purpose on similar occasions.

(5) Where land is unoccupied but been occupied at some time, planning permission is not required for the use of the land for the purpose for which it was last used.

(6) Where planning permission has been granted for a limited period, planning permission is not required for the resumption, at the end of that period, of the use of the land for the purpose for which it was normally used before such permission was granted.

(7) In determining for the purposes of subsections (3), (4), and (5) respectively, what were the purposes for which land was normally used or last used, account shall not be taken of any use of land begun in contravention of previous planning control.

(8) In determining for the purpose of subsection (6) what were the purposes for which the land was normally used before the grant of planning permission for a limited period, account shall not be taken of any land use begun in contravention of this Part or in contravention of previous planning control.

(9) Where planning permission is granted subject to limitations by a development order, planning permission is not required for the use of that land which (apart from its use for the permitted development) is the normal use of that land, unless the last-mentioned use was begun in contravention of this Part or in contravention of previous planning control.

(10) For the purposes of this section, a use of land was begun in contravention of previous planning control if it was begun in contravention of the provisions of the *Town and Country Planning Act*, Cap. 240, or of any development order or Regulations made under that Act.

Applications to determine whether permission is required

22.(1) Any person who proposes to carry out any operations in, on, over or under land, or to make a change in the use of any land or building, and wishes to determine whether such an act would constitute or involve the development of land, and whether such an act constitutes permitted development pursuant to a

development order or an application for planning permission is required under this Part, may apply to the Chief Town Planner to determine that question.

(2) An application made under this section may be made without any application for planning permission having been submitted, on payment of the prescribed fee, and every such application shall be determined by the Chief Town Planner within 14 days of the date of submission.

(3) For the avoidance of doubt, it is hereby declared that the question of whether an application for planning permission is required is inherent in every application for planning permission submitted and, in the event that the Chief Town Planner determines that the proposed acts do not involve the development of land or an application for planning permission is not required, the Chief Town Planner shall notify the applicant, cancel the application and refund the application fee paid by the applicant, less the fee payable with respect to an application made under this section.

(4) Where an application is made in accordance with subsection (2), if the Chief Town Planner fails to determine the application within 28 days, or the applicant is dissatisfied with the decision of the Chief Town Planner on the question of whether the proposed act constitutes permitted development pursuant to a development order or an application for planning permission is required, the applicant may submit the question for determination by way of an appeal to the Tribunal under Part XI.

Development Orders

23.(1) The Minister may by order (in this Act referred to as a “development order”) provide for the grant of planning permission under this Part.

(2) A development order may be made in respect of the whole of Barbados or any area thereof and, where it is made in respect of an area of Barbados, shall define in writing, or on a map of a scale which shows the boundaries definitively, the extent and boundaries of that area.

- (3) A development order may
- (a) grant planning permission for any class or type of development specified in the order (in this Act referred to as “permitted development”), either unconditionally or subject to such conditions or limitations as may be specified in the order;
 - (b) provide for the grant of planning permission in any other case by the Board or the Minister, as the case may be, on an application in that behalf made in accordance with the order.
- (4) Without prejudice to the generality of subsection (3)(a), a development order which confers planning permission for any development may
- (a) where planning permission is thereby granted for the erection, extension or alteration of any buildings, require the grant of planning permission on an application made in that behalf to be obtained with respect to the design or external appearance thereof; or
 - (b) where planning permission is thereby granted for development of a specified class, enable the Minister to direct that the permission shall not apply either in relation to development in any particular area or in relation to any particular development.
- (5) In a development order made under this section, the Minister shall not grant planning permission for any type of development in a coastal zone management area established under the *Coastal Zone Management Act*, Cap. 394 which is prohibited by a coastal zone management plan approved in accordance with that Act.
- (6) To enable development to be carried out in accordance with planning permission granted under this Part, or otherwise to promote proper development in accordance with the development plan, a development order may direct that any Act, statutory instrument or other enactment which was in force before the date of commencement of this Act, or any statutory instruments made (whether before or after that day) under such Act or other enactment shall not apply to any

development specified in the order, or shall apply thereto subject to such modifications as may be specified.

Consultation before applying for planning permission

24.(1) The Minister may by a development order require a person who proposes to make an application for planning permission for a proposed development, of a class specified in the order, carry out consultations on the proposed application in accordance with this section before making the application.

(2) A person required to carry out consultations with respect to a proposed development shall consult the Chief Town Planner and such other regulatory agencies or persons as the Chief Town Planner may specify.

(3) A person subject to the duty imposed by this section shall have regard to the advice given by the Chief Town Planner and other persons duly consulted with respect to the plans, studies and other information that will be required by the Department and other regulatory agencies in order to determine the proposed application expeditiously.

(4) When an application is made following consultations carried out pursuant to this section, the fees payable with respect to consultations before applying for planning permission shall be offset against the application fee payable by the applicant.

Approval in principle

25.(1) Any person who intends to apply for a planning permission may make application to the Board for approval in principle of the proposed development at the conceptual stage, before preparing detailed plans.

(2) An application for approval in principle shall be made on the form prescribed by the Chief Town Planner accompanied by such conceptual plans and other information as the Chief Town Planner requires for its evaluation.

(3) The information which the Chief Town Planner may require pursuant to subsection (2) includes an initial environmental evaluation of the proposed development.

(4) The Board may grant approval in principle, with or without conditions, subject to the subsequent approval of any matter reserved until detailed plans and further information, including but not limited to an environmental impact assessment, have been submitted, or may refuse to grant approval in principle.

(5) For the avoidance of doubt, approval in principle granted under subsection (4) is not permission to commence development and the applicant shall comply with the provisions of section 26 before planning permission is granted.

(6) Where the Board is of the opinion that an application for approval in principle ought not to be considered without the submission of the detailed information required for an application for planning permission under section 26, the Chief Town Planner shall notify the applicant forthwith that the Board is unable to determine the application for approval in principle.

(7) Where after the grant of approval in principle, further information becomes available to the Board, or a situation subsequently arises, whereby in the opinion of the Board the proposed development would be detrimental to the environment, the cultural or natural heritage, public health, safety or welfare, or would constitute a potential danger to national security, approval in principle granted under this section may be revoked or modified by the Board, by notice in writing which specifies the reasons for the modification or revocation, without any compensation.

Applications for planning permission

26.(1) An application for planning permission shall be submitted to the Chief Town Planner and shall be

- (a) made in such form and include such drawings and other particulars as may be prescribed by regulations; and

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- (b) accompanied by proof of payment of the appropriate application fee prescribed by regulations.
- (2) The Chief Town Planner may cancel an application made under this Part and return it to the applicant with a notice to that effect, within 28 days of the receipt of the application, where the Chief Town Planner is of the opinion that the application is premature, having regard to
- (a) the means of access to the land to which the application relates and the need to make provision or better provision for access before development can be permitted;
 - (b) any existing deficiency in the provision of water or electricity supplies to the land to which the application relates and the period within which any such deficiency may reasonably be expected to be made good; or
 - (c) the prejudicial effect that determination of the application would have on the formulation of a physical development plan for the area in which the land to which the application relates is situated.
- (3) When an application is withdrawn by the applicant, or is cancelled pursuant to subsection (2), the applicant is not entitled to a refund of any application fee paid with respect to that application or to any form of compensation.

Requirements for further information

- 27.(1)** The Chief Town Planner may, by notice in writing, require an applicant for planning permission to
- (a) submit, within such time as may be prescribed in the notice, such further information as may be specified in the notice as the Chief Town Planner considers necessary to enable the Board or the Minister, as the case may be, to determine the application; or
 - (b) without prejudice to the generality of paragraph (a), cause an environmental impact assessment of the proposed development to be carried out pursuant to section 30 and an environmental impact statement to be submitted to the Chief Town Planner.

(2) The power of the Chief Town Planner to require further information under subsection (1)(a) is exercisable once with respect to each application and shall be exercised within 28 days of submission of the application.

(3) Where further information is required under paragraphs (a) or (b) of subsection (1), the application is treated as having been made on the date when the further information was submitted, so that the period provided for the determination of the application specified in section 34(1) does not commence until the date of receipt of the further information.

(4) Where an applicant does not furnish the Chief Town Planner with the further information required under paragraphs (a) or (b) of subsection (1) within the period specified in the notice, or such longer period as may be agreed upon between the applicant and the Chief Town Planner, the Chief Town Planner may cancel the application and may return it to the applicant with a notice to that effect, or the Board or the Minister, as the case may be, may refuse to grant planning permission, as they think fit.

(5) When an application is cancelled pursuant to subsection (4), the applicant is not entitled to a refund of any application fee paid with respect to that application or to any form of compensation.

Coordination with referral agencies

28.(1) Any referral agency which receives a request in writing from the Chief Town Planner for their technical advice on an application shall reply to that request within the period, being not more than 21 days, specified in the request made by the Chief Town Planner.

(2) In specifying the period within which a referral agency shall reply to a request for technical advice, the Chief Town Planner shall have regard to the period within which the application shall be determined specified in section 34(1).

(3) For the avoidance of doubt, it is hereby declared that if a referral agency, omits to submit their comments on an application to the Chief Town Planner within the period specified in the request for comments, the comments of that

agency may be disregarded by the Board or the Minister, as the case may be, in determining the application.

Publicity for applications

29.(1) A development order may make provision requiring notice to be given of any application of a specified class and provide for publicising such applications and for the form, contents and service of such notices.

(2) Without prejudice to the generality of subsection (1), such publicity shall be required with respect to

- (a) any application for which an environmental impact assessment is required pursuant to section 30;
- (b) any application of strategic economic or environmental significance which is to be referred to the Minister pursuant to section 33; and
- (c) any application for development that is inconsistent in some material respect with an approved physical development plan for the area in which the proposed development is located.

(3) In determining an application to which this section relates, the Board or the Minister, as the case may be, shall take into account any objection, representation or comment submitted or made with respect to the application under this section.

(4) Where the applicant fails to comply with the requirements of a notice given under subsection (1) the Chief Town Planner shall determine that the application has been withdrawn by the applicant and may cancel and return the application to the applicant.

(5) When an application is cancelled pursuant to subsection (4), the applicant is not entitled to a refund of any application fee paid with respect to that application or to any form of compensation.

Environmental Impact Assessment

30.(1) The Chief Town Planner may require an environmental impact assessment to be carried out by the applicant in respect of any application for permission to develop land, if the proposed development, by reason of its nature, scale or location, could significantly affect the environment.

(2) Unless the Minister directs otherwise, the Chief Town Planner shall require an environmental impact assessment in respect of an application for a development of any kind mentioned in the *Third Schedule*.

(3) The Board or the Minister, as the case may be, may not grant permission for the development of land pursuant to an application to which this section applies unless an environmental impact statement has first been taken into account.

(4) The Minister shall make environmental impact assessment regulations providing for

- (a) the criteria and procedures for determining whether an activity is likely to significantly affect the environment so that an environmental impact assessment may be required in addition to the information that the applicant is ordinarily required to submit;
- (b) the procedures for settling the scope of works of the environmental impact assessment to be carried out by the applicant in respect of any development;
- (c) the minimum contents of an environmental impact statement to be submitted to the Chief Town Planner in respect of the environmental impact assessment carried out by the applicant;
- (d) the qualifications, skills, knowledge or experience which shall be possessed by persons conducting environmental impact assessment studies for the purposes of this Act;

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- (e) the procedures for public participation in the environmental impact assessment process and public scrutiny of the environmental impact statement submitted to the Chief Town Planner;
 - (f) the procedure and criteria for review of the environmental impact statement; and
 - (g) the consideration by the Board of an application with respect to which an environmental impact assessment has been required.
- (5) When the Chief Town Planner notifies an applicant that an environmental impact assessment is required, the Department and any other, including any statutory undertaker, if requested by the applicant, shall enter into consultation with the applicant to determine whether that department or agency of Government has in its possession any information which the applicant considers relevant to the environmental impact assessment and, if it does, the department or agency of Government shall make any such information available to the applicant and allow the applicant to take copies on payment of the cost of making the copies, but is not required to disclose any confidential information to the applicant or to do anything that contravenes the provisions of the *Copyright Act*, Cap. 300.
- (6) When a notice requiring an applicant to carry out an environmental impact assessment is issued, the Chief Town Planner shall notify any department or agency of the Government of Barbados having responsibility for the issue of any licence, permit, approval, consent or other document of authorisation in connection with any matter affecting the development.
- (7) A department or agency of the Government of Barbados that has been given notice in accordance with subsection (6), may not grant its licence, permit, approval, consent or other document of authorisation, unless it has been notified by the Chief Town Planner that the notice has been complied with and that planning permission has been granted for the proposed development.
- (8) For the avoidance of doubt, it is hereby declared that in addition to the application fee prescribed with respect to an application for planning permission

for which an environmental impact assessment is required, if any, the applicant may be liable to an additional fee for the review of the environmental impact statement, payable upon submission of the environmental impact statement for review.

Permission to regularise unauthorised development

31.(1) The power of the Board to grant planning permissions under this Part includes power to grant permission for the retention on land of any buildings or works constructed or carried out before the date of the application, or for the continuation of any use of land instituted before that date, and references in this Part to planning permission and to applications for planning permission are to be construed accordingly.

(2) Any planning permission granted in accordance with subsection (1) may take effect from the date on which the buildings or works were constructed or carried out, or the use was instituted.

(3) In the case of buildings or works constructed or a use instituted in accordance with planning permission granted for a limited period, any planning permission granted in accordance with subsection (1) may be granted so as to take effect from the end of that period.

(4) The application fee payable with respect to an application for the retention of unauthorised development to which this section applies, as prescribed by regulations made under section 104, shall exceed the application fee ordinarily payable with respect to applications for prior permission for the same class of development.

Determination of applications by the Board

32.(1) When an application for permission to develop land, other than an application to which section 33 relates, is duly made, the application shall be dealt with by the Department and submitted, together with a statement containing the observations and recommendations of the Chief Town Planner, to the Board for determination.

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- (2) The Board shall have regard to the provisions of the physical development plan for the area within which the land is situated, if any, and to any other material considerations, and, subject to subsection (3), may grant planning permission, either unconditionally or subject to conditions, or refuse permission.
- (3) Where the Board grants planning permission subject to conditions or refuses permission, the Board shall give reasons in writing for its decision in the notice of planning permission or refusal, as the case may be.
- (4) In determining an application for planning permission, the Board, shall be guided by a presumption in favour of granting planning permission and, where it appears that a proposed development which would otherwise be refused can be permitted subject to conditions if the application is modified, the Board shall issue to the applicant a notice of provisional refusal which specifies the modifications to the development proposal that are required before permission may be granted.
- (5) Where an applicant to whom a notice of provisional refusal is issued consents to modify the development proposal as specified, and makes the modifications within such time as may be prescribed in the notice, the Board shall cancel the provisional refusal and grant planning permission subject to such conditions as it sees fit.
- (6) Where an applicant to whom a notice of provisional refusal is issued consents to modify the development proposal but requests an opportunity to negotiate with respect to the required modifications, the Board shall enter into such negotiations with the applicant for up to 28 days, and shall cancel the provisional refusal and grant planning permission, subject to such conditions as are agreed, if the issues in contention are resolved in the negotiations, or otherwise shall confirm the refusal of planning permission.
- (7) Where an applicant to whom a notice of provisional refusal is issued does not consent to modify the development as specified in the notice and does not opt to enter into negotiations with respect to the required modifications or proposed conditions within 28 days of the date of issue of the notice, the Board shall confirm the refusal of planning permissions.

(8) For the avoidance of doubt, it is declared that the considerations which the Board shall take into account in determining an application include

- (a) the advice of the Chief Town Planner;
- (b) any other further information submitted by the applicant in support of the application pursuant to section 27;
- (c) the comments made by any referral agency or other statutory body or person consulted by the Chief Town Planner with respect to the application pursuant to section 28;
- (d) the objections, representations or comments made by any person with respect to an application which has been publicised pursuant to section 29;
- (e) the environmental impact statement concerning the proposed development submitted to the Chief Town Planner pursuant to section 30, if any; and
- (f) where the land is located in a coastal zone management area established under the *Coastal Zone Management Act*, Cap. 394, the provisions of the coastal zone management plan approved in accordance with that Act, if any.

(9) Without restricting the generality of subsection (2), conditions may be imposed on the grant of planning permission to develop land

- (a) regulating the development or use of any land under the ownership of the applicant, whether or not it is land in respect of which the application was made, including the discontinuance of any existing uses of the land or requiring the carrying out of works on such land, so far as appears to the Board expedient for the purposes of or in connection with the development authorised by the permission;
- (b) requiring the removal of any buildings or works authorised by the permission, or the discontinuance of any use of land so authorised, at

the end of a specified period, and the carrying out of any works required for re-instatement of the land at the expiration of that period;

- (c) requiring the commencement or completion of any development before a specified date or on or before the completion of any other development to be carried out by the same applicant;
- (d) requiring the provision of proper services including gas, water, electricity, telecommunications and roads, before the sale, lease or other disposition of any land for which permission for subdivision for residential, commercial or industrial purposes is given.

(10) Any planning permission granted subject to any such condition as is mentioned in subsection (9)(b) is referred to in this Act as “planning permission for a limited period”.

(11) Where

- (a) planning permission is granted for development consisting of or including the carrying out of building or other operations subject to a condition that shall be commenced or completed before a date specified in the condition; and
- (b) any building or other operations are commenced or completed after the date so specified,

then

- (i) the commencement and carrying out of those operations in the case of a condition requiring the commencement of those operations before a date specified in the condition; or
- (ii) the carrying out of any operations after the date specified in the conditions, in the case of a condition requiring those operations to be completed before such date,

do not constitute development for which that permission was granted.

(12) For the avoidance of doubt, it is hereby declared that, where the Board has delegated the power to determine applications to the Chief Town Planner pursuant to section 10, the provisions of this section apply *mutatis mutandis* to the determination of applications by the Chief Town Planner as they apply to the determination of applications by the Board.

Referral of applications to the Minister

33.(1) The Minister may give directions to the Chief Town Planner requiring that any application or class of applications for planning permission specified in the direction, being development which would involve either a significant departure from the approved physical development plan or is of strategic economic or environmental significance, shall be referred to the Minister for determination.

(2) Where an application which is to be referred to the Minister under this section is duly made, the application shall be dealt with by the Department and submitted, together with a statement containing the observations and recommendations of the Chief Town Planner, to the Minister for determination.

(3) Where an application for planning permission is referred to the Minister under this section the Chief Town Planner shall give notice to the applicant and any other person who has duly made an objection to the grant of planning permission when the application was publicised pursuant to section 29 (hereinafter referred to as “the objector”), of the referral of the application to the Minister.

(4) Before determining an application under this section, the Minister shall, if the Chief Town Planner, the applicant or the objector so desires, give the aforementioned parties an opportunity to present their case in writing or appear before and be heard by a person, being a member of the Tribunal, appointed by the President for that purpose.

(5) A hearing referred to in subsection (4) shall be conducted within 42 days of the date on which the completed application is submitted in accordance with

the procedures with respect to the conduct of such hearings prescribed by regulations.

(6) A person appointed to conduct a hearing under subsection (5) shall, within 21 days of the completion of the hearing, submit a report on the findings and conclusions of the hearing to the Minister and copies of every such report shall be provided to the Chief Town Planner and the applicant, and shall be made available for perusal by any member of the public in documentary form at the office of the Department and in electronic form on the internet.

(7) The provisions of section 32 apply, with any necessary modifications, to the determination of an application by the Minister as they apply to the determination of an application by the Board.

(8) Where an application is referred to the Minister for determination under this section, the Minister shall give notice of the decision on that application within 21 days of receipt of the report of the person appointed to conduct the hearing, pursuant to subsection (6).

(9) The decision of the Minister made on any application referred to the Minister under this section is final.

Limitation Periods

34.(1) Where an application for planning permission to be determined by the Board is duly made, the Chief Town Planner shall issue a notice of the Board's decision

- (a) in the case of an application for which an environmental impact assessment has been submitted, within 12 weeks from the date of submission of the environmental impact statement;
- (b) in the case of an application classified in the *First Schedule* as a complex application, other than an application for which an environmental impact assessment has been submitted, within a period of 10 weeks, from the date of submission of the application;

- (c) in the case of any other application, within a period of 6 weeks from the date of submission of the application; or
 - (d) in any case, such extended period as may be agreed to in writing between the Chief Town Planner and the applicant.
- (2) Unless notice of the Board's decision is issued within the period prescribed by subsection (1), the provisions of section 35 apply in relation to the application as if it had been refused.
- (3) For the avoidance of doubt it is declared that planning permission issued after the expiry of the applicable period prescribed in subsection (1) is valid, and an applicant may choose to accept the benefit of such permission instead of appealing against the decision pursuant to section 35.

Right of Appeal

35.(1) If a planning permission is refused by the Board, or is granted by the Board subject to conditions, an applicant, or any other person having an interest in the land (except a mortgagee not in possession), who is aggrieved by the decision of the Board may, within 28 days from the date of the decision, appeal in writing against that decision to the Tribunal in accordance with Part XI, setting out the grounds upon which the appeal is made.

(2) For the avoidance of doubt, it is hereby declared that the right to appeal against decisions of the Board under this section includes a right to appeal against any such decision made by the Chief Town Planner or any other officer of the Department under powers delegated by the Board pursuant to section 10.

Planning obligations

36.(1) Where a person applies for planning permission under this Act, the Crown may, on the advice of the Board and with the consent of the Minister, enter into an agreement with that person or, if that person is not the owner of the land to which the application relates, the owner of the land, and the agreement shall contain such obligations as the Board thinks fit.

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- (2) Without restricting the generality of subsection (1), the obligations included in the agreement may
- (a) cover matters in respect of which conditions may not be imposed on a planning permission;
 - (b) impose an obligation indefinitely or for such period as may be specified, unconditionally or subject to conditions;
 - (c) provide for the making of a contribution (whether of works, money or land) by the applicant towards the provision of services, facilities (including their future maintenance) and amenities in the area in which the proposed development is to be carried out; or
 - (d) provide for a performance bond or other financial security for ensuring due compliance with the agreement by the applicant.
- (3) An agreement made under this section shall be entered into by way of an instrument executed as a deed that
- (a) states that the obligation imposed by the agreement are planning obligations for the purposes of this section;
 - (b) identifies the land in respect of which the obligation is being made;
 - (c) identifies the person entering into the obligation; and
 - (d) states the interest that the person entering into the obligation has in the land.
- (4) An agreement made under this section shall be a charge on the land that is the subject of the planning permission and shall be recorded in the Land Registry in accordance with the provisions of the *Land Registration Act*, Cap. 229.
- (5) Any such agreement is binding on the person entering into the agreement and any person deriving title from that person, until it is discharged in accordance with the provisions of the *Land Registration Act*, Cap. 229.
- (6) Notwithstanding subsection (5), such an agreement may provide that the person entering into the agreement is not bound by the agreement when that

person no longer has any interest in the land to which the planning permission relates.

(7) Where there is a breach of a requirement in an agreement entered into under this section, to carry out any operations in, on, over or under any land to which the obligation relates, the Minister

- (a) may cause any person to enter the land and carry out the operations; and
- (b) recover as a civil debt any expenses reasonably incurred in doing so from the person against whom the obligation is enforceable, in a court of competent jurisdiction.

(8) Before taking any action pursuant to subsection (7), the Minister shall give not less than 21 days notice to any person against whom the planning obligation is enforceable.

Modification and discharge of planning obligations

37.(1) A planning obligation may be modified by an instrument executed as a deed between the parties to the agreement entered into pursuant to section 36 or in accordance with subsection (3).

(2) A planning obligation may be discharged in accordance with this section.

(3) A person against whom a planning obligation is enforceable may at any time after the expiry of the period prescribed in the agreement or, where no such period is prescribed, 5 years from the date on which the obligation is entered into, apply to the Minister for the obligation

- (a) to have effect subject to such modifications as are specified in the application; or
- (b) to be discharged.

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- (4) Where an application is made under subsection (3), the Minister may determine
- (a) that the obligation shall continue to have effect without modification;
 - (b) where the obligation no longer serves a useful purpose, that it shall be discharged; or
 - (c) where the obligation continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to the modifications specified in the application, or any of them, that it shall have effect subject to such modifications.
- (5) The Minister shall give notice of the determination made under subsection (4) to the applicant not later than 3 months after the application is made.
- (6) Where the Minister determines that a planning obligation shall have effect subject to any modification, the modified obligation shall be enforceable as if it had been entered into on the date on which the notice of the determination of the application for modification was given to the applicant.
- (7) Where the Minister fails to give notice of a determination in accordance with subsection (5) or determines that a planning obligation shall continue to have effect without modification, the applicant may appeal to the Tribunal in writing against that decision in accordance with Part XI, setting out the grounds upon which the appeal is made.
- (8) Where the Minister fails to give notice of a determination in accordance with subsection (5), it shall be assumed for the purposes of an appeal that the Minister has determined that the planning obligations shall continue to have effect without modification.

Effect of planning permission

38.(1) Without prejudice to the provisions of this Part as to the lapse, modification or revocation of planning permission, the permission granted thereby enures for the benefit of the land and of all persons for the time being

having an interest in the land, unless the notice of planning permission expressly provides otherwise.

(2) Planning permission granted under this Act does not exempt any proposed development from any regulatory requirements imposed upon such development by or under any other enactment.

Duration of planning permission

39.(1) Where no planning permission covering the same development has been applied for within 2 years of the grant of approval in principle or such longer period as may be specified in the notice of approval, that approval in principle lapses and ceases to have any force or effect.

(2) Planning permission is subject to a condition that it lapses and ceases to have effect if the development to which it relates has not been substantially commenced within 5 years of the grant of the planning permission, or such longer period as may be authorised by the Board in any particular case.

(3) Where planning permission provides for different parts of the development to commence at different times, the provisions of this section apply to those separate parts of the development as if planning permission was granted for each separate part or stage of the development.

(4) The Board may serve written notice on a person who has commenced development pursuant to planning permission within the prescribed time, requiring that person to complete the development within the time specified in such notice, and stating that if the development is not completed within that period the planning permission will cease to have effect after the expiration of a further period specified in the notice.

(5) Upon expiration of the further period specified in a notice served under subsection (4) the planning permission ceases to be valid or to have any effect and any further development or work carried out with respect to the development authorised by that planning permission is a breach of planning control.

(6) For the purposes of this section, development by way of building, engineering, mining or other operations or the subdivision of land is taken to be substantially commenced on the earliest date on which either

- (a) all the operations below the surface level of the site have been carried out; or
- (b) a registered architect or engineer certifies that 20 per cent or more of the building or engineering operations authorised by the planning permission have been carried out.

(7) For the avoidance of doubt, it is hereby declared that no compensation is payable with respect to any loss arising from the lapse of planning permission under this section.

(8) Any person upon whom a notice is served under subsection (4) may at any time within the period specified therein for the completion of the development appeal in writing to the Tribunal against the notice on the grounds that the time allowed for compliance falls short of what should reasonably be allowed.

Non-material changes to planning permission

40.(1) Whenever plans have been submitted to the Chief Town Planner in application for planning permission and such permission has been granted, the development shall be carried out in accordance with the approved plans and any conditions imposed by the Board or the Minister, as the case may be.

(2) The Chief Town Planner may approve any minor variation to plans approved by the Board, provided that the variations do not materially alter or affect the terms and conditions subject to which planning permission was granted, and inform the Board of the action which has been taken in that particular case.

(3) Where the Chief Town Planner is requested to approve a variation to approved plans under subsection (2), but is of the opinion that the proposed variation will materially alter or affect the terms and conditions subject to which planning permission was granted, the Chief Town Planner shall inform the applicant in writing that a fresh application is required.

Completion of development

41.(1) This section has effect where planning permission is subject to a condition that the development to which the permission relates shall be carried out by or before a specified date and the development is begun but is not completed before the specified date.

(2) Where, in the opinion of the Chief Town Planner, the development will not be completed within a reasonable period after the specified date, the Board may give notice (in this section referred to as a “completion notice”) that the planning permission shall cease to have effect at the expiration of a period specified in the notice, being not less than one year after the notice takes effect.

(3) A completion notice

(a) shall be served on the owner and occupier of the land and on any other person who, in the opinion of the Chief Town Planner, will be affected by the notice; and

(b) takes effect within 28 days from the date of service on the owner of the land, if and when it is confirmed by the Minister.

(4) In confirming a completion notice, the Minister may substitute, for the period specified in the notice, some longer period as the period at the expiration of which the planning permission will cease to have effect.

(5) Where a completion notice takes effect, at the expiration of the period specified in the completion notice or such longer period substituted by the Minister, as the case may be, the planning permission referred to therein is invalid, except in so far as it authorises any development carried out under the planning permission before the expiration of that period.

(6) Any person upon whom a completion notice is served under this section may appeal in writing against that decision to the Tribunal in accordance with Part XI, setting out the grounds upon which the appeal is made.

Modification or revocation of planning permission

42.(1) Subject to the provisions of this section, where it appears to the Board, after consideration of such advice as may be given by the Chief Town Planner, that it is desirable that any planning permission ought to be modified or revoked, the Board may, with the consent of the Minister, by written notice to the person entitled to the benefit of the permission, revoke or modify the planning permission to such extent as it considers desirable.

- (2) The power conferred on the Board by this section may be exercised
- (a) where the planning permission relates to the carrying out of building or other operations, at any time before those operations have been completed;
 - (b) where the planning permission relates only to the making of a material change in the use of building or other land, at any time before the change has taken place; and
 - (c) where the planning permission relates to the subdivision of land, at any time before the subdivision plan has been recorded in the Land Registry.
- (3) The modification or revocation of a planning permission for the carrying out of building or other operations does not affect so much of the operations as has been previously carried out.
- (4) A notice of the modification or revocation of a planning permission under this section shall include
- (a) a statement of the reasons for the modification or revocation;
 - (b) such directions as the Board considers necessary for the bringing to an end any development to which the notice relates;
 - (c) information as to any claim for compensation that may arise in consequence of the modification or revocation, and the procedure for making any claim for compensation;

- (d) information as to the right of appeal to the Tribunal under Part XI of this Act; and
 - (e) such other matters as may be prescribed.
- (5) Upon the service of a notice under subsection (1), the planning permission concerned ceases to be valid or to have effect to the extent to which the modification or revocation so requires, and any further development or work carried out contrary to such notice is a breach of planning control.
- (6) Notwithstanding subsection (5), the Board, after considering any representations made in respect of such a notice, may at any time cancel or withdraw that notice.
- (7) An appeal lies to the Tribunal under Part XI against the issue of a notice by the Board under subsection (1), or against the refusal of the Board to cancel or withdraw such notice under subsection (6).
- (8) Pending the determination of any such appeal referred to in subsection (7) the notice concerned is deemed to be suspended in its operation, save that any further development or work carried out is a breach of planning control.

Certificate of lawful use or development

- 43.(1)** A person who wishes to ascertain whether any operations which have been carried out in, on, over or under any land, or any existing use of buildings or other land or any other matter related to the development of land, is lawful, may apply to the Chief Town Planner for that purpose, specifying the location of the land and describing the operations or use or other matter in question.
- (2) For the purposes of this Act, any operations or material change in the use of land are lawful at any time if
- (a) such operations or uses do not constitute development within the meaning of this Act;

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- (b) the development is authorised by a grant of planning permission and complies with any conditions subject to which such permission was granted;
 - (c) the development is permitted under a development order and complies with any conditions and limitations subject to which such permission was granted;
 - (d) no enforcement action may be taken with respect to the carrying out of the development, or any breach of the conditions or limitations subject to which such development was permitted, because the time for enforcement action in respect of any such breach of planning control has expired; or
 - (e) the operations or use do not contravene the requirements of an enforcement notice in force.
- (3) Where on an application under this section, the Chief Town Planner is satisfied that the operations or use of the land described in the application are lawful, the Chief Town Planner shall issue a certificate to that effect, and in any other case refuse the application.
- (4) A certificate under this section shall
- (a) specify the land to which it relates;
 - (b) describe the operations or use or any other matter in question;
 - (c) give reasons for determining that the operations or use or other matter is lawful; and
 - (d) specify the date of the application and the certificate.
- (5) The lawfulness of any operations, use or other matter for which a certificate is in force under this section shall be conclusively presumed in any proceedings whatsoever.

(6) An appeal lies to the Tribunal under Part XI against the refusal of the Chief Town Planner to issue a certificate of lawful use or development under this section.

PART V

BUILDING, ENGINEERING AND SUBDIVISION PLANS

Building plans

44.(1) An application for planning permission for building operations may be submitted by the applicant, or an agent for the applicant, but, subject to subsection (3), building plans included in an application for planning permission shall be signed and stamped by a registered professional architect or civil engineer.

(2) A registered professional architect or civil engineer who signs and stamps building plans included in an application for planning permission is liable for ensuring that such plans comply with the Building Code and Building Regulations in force, if any.

(3) A person who is not a registered professional architect or civil engineer may prepare and sign building plans submitted in an application for planning permission for

- (a) dwelling houses and duplex dwellings;
- (b) buildings of not more than 2 storeys containing more than 2 dwelling units but less than 10 dwelling units; or
- (c) commercial buildings of no more than 465 square metres in gross floor area and no more than two stories in height.

(4) For the avoidance of doubt, it is hereby declared that the grant of planning permission under this Act for the carrying out of building operations does not

affect any requirement for regulatory approval to be obtained in relation to such buildings under any other enactment.

(5) The Crown is exempt from any liability for negligence arising from the grant of planning permission for building operations under this Act, whether the building plans submitted in application for planning permission were prepared by a registered professional architect or civil engineer or any other person.

Emergency engineering operations

45.(1) Nothing in this Act shall render unlawful the carrying out of any engineering operations which are urgently necessary for coastal conservation or sea defence, or in the interest of public safety or the preservation of property, provided that an application for planning permission to regularise the unauthorised development is made to the Board, pursuant to section 31, as soon as may be practicable after the necessity for the emergency works arises.

(2) Where such an application is for the retrospective approval of emergency works undertaken on the seabed or shoreline for the purposes of coastal conservation or sea defence, the application shall be accompanied by a certificate issued by the Director of the Coastal Zone Management Unit verifying that the engineering operations carried out without prior planning permission were urgently necessary.

Subdivision plans

46.(1) An application for planning permission to sub-divide land shall be made in the manner prescribed by section 26, accompanied by a layout plan of the proposed subdivision drawn to scale and showing

- (a) the boundaries of the land proposed to be subdivided;
- (b) the locations and widths of the proposed roads within the proposed subdivision and the locations, widths and names of existing roads on to which the proposed subdivision abuts;
- (c) the purpose for which the proposed parcels are to be used;

- (d) the existing uses of all adjoining lands;
 - (e) the approximate dimensions and layout of the proposed parcels;
 - (f) natural and artificial features such as buildings or other structures or installations, roads, watercourses, drainage ditches, wetlands, caves, sinkholes and wooded areas within or adjacent to the land proposed to be subdivided;
 - (g) the nature and porosity of the soil;
 - (h) existing contours or elevations as may be required to determine the grade of the highways and the drainage of the land proposed to be subdivided;
 - (i) the public services, including water and electricity supply, available or to be available to the land proposed to be subdivided;
 - (j) the nature and extent of any restrictions affecting the land proposed to be subdivided, including rights of way and other easements; and
 - (k) a copy of the title deed or certificate of title in respect of the parcel of land.
- (2) When the layout plan of the proposed subdivision is being considered by the Board, regard shall be had, among other material considerations, to
- (a) whether the plan conforms to the physical development plan for the area;
 - (b) approved plans for the subdivision of adjacent lands, if any;
 - (c) the suitability of the land for the purposes for which it is to be subdivided;
 - (d) the number, width, location and proposed grades and elevations of roads, and the adequacy thereof, and the roads linking the roads in the proposed subdivision with the established road system in the vicinity and the adequacy thereof;

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- (e) the dimensions and shapes of the proposed lots;
 - (f) the adequacy of public utilities and services;
 - (g) conservation of natural resources and flood control;
 - (h) the area of land, if any, within the proposed subdivision that, exclusive of roads, is to be conveyed or dedicated for public or community purposes; and
 - (i) whether the proposed subdivision is premature or in the public interest.
- (3) The Board may impose such conditions with respect to the approval of a plan of subdivision as are reasonable, having regard to the nature of the development proposed for the subdivision, including but not limited to requirements that
- (a) an area of the land be dedicated for open space purposes in accordance with the provisions of section 47; and
 - (b) such roads within the subdivision be dedicated to the public as the Chief Technical Officer of the Ministry responsible for highways considers necessary.
- (4) Without prejudice to the generality of subsection (3), when the proposed subdivision abuts upon an existing highway the Board may, in particular, impose a condition that sufficient land, other than land occupied by buildings or other structures, be dedicated to provide for the widening of that existing highway to such width as the Board, on the advice of the Chief Technical Officer of the Ministry responsible for highways, considers necessary.

Reservation of open space

47.(1) The Board may, as a condition subject to which a planning permission is granted for the subdivision of land to be laid out in residential building lots, require the developer to reserve part of the land as an open space.

(2) If the Board requires open space to be reserved in accordance with subsection (1), the developer shall carry out any operations required to make it

fit for the use for which it was reserved, in compliance with any conditions subject to which permission was granted.

Transfer of open spaces

48.(1) When land that has been reserved as an open space has been rendered fit for the use for which it was reserved in accordance with section 47, the developer shall transfer the open space to

- (a) a body corporate that is representative of the owners of the building lots in the subdivision; or
- (b) the Crown.

(2) For the avoidance of doubt, it is hereby declared that no compensation or purchase price is payable to the person who was at the date of transfer of title the owner of the land with respect to an open space transferred to the Crown or any other person pursuant to subsection (1), and no tax is payable with respect to any such transfer.

(3) A developer who opts to transfer the open space to the Crown, pursuant to subsection (1), may be required to enter into a planning obligation agreement pursuant to section 36 providing for the making of a financial contribution, either periodically or on a specified date, to cover or contribute to the cost of future maintenance of the open space by the Crown, and providing for financial security for ensuring compliance with that obligation.

(4) A completion certificate shall not be issued in respect of any development to which this section applies pursuant to section 50 until the developer has substantially complied with the requirements of subsection (1).

(5) In order to ensure the preservation and use of the open space for the purpose for which it was reserved, the Cabinet may place any land vested in the Crown pursuant to this section under the management of the National Conservation Commission established by the *National Conservation Commission Act*, Cap. 393 or such other body as it sees fit.

Provision of services in subdivisions

49.(1) Where any engineering or other operations are necessary or expedient for the purpose of laying the land out in the manner in which it is being subdivided, the developer of the land to be subdivided shall carry out any operations on the land that the Board requires for providing infrastructure and utilities to service the lots created by the subdivision of the land.

(2) The operations that the Board may require the developer of the land to carry out pursuant to subsection (1) include the provision of roads, drains, a sewage collection, treatment and disposal works, water mains, fire hydrants, electricity supply, street lighting and telecommunications services.

(3) Any engineering or other operations required to be carried out under this section shall be carried out in the manner and to the standards specified by the statutory bodies, authorities or statutory undertakers having functions and powers under any other enactment with respect to the provision of roads, drains, sewage collection, treatment and disposal works, water mains, fire hydrants, electricity supply, street lighting and telecommunication services (in this Part referred to as the “relevant authorities”) and approved by the relevant authorities prior to the issue of a completion certificate issued pursuant to section 50.

Commencement and completion of works

50.(1) Where planning permission has been granted for building or engineering operations, including but not limited to engineering operations for the provision of infrastructure in subdivisions, no such operations may be carried out until the developer has given 7 days notice in writing to the Chief Town Planner of the intention to commence works.

(2) Where the Chief Town Planner has been notified in writing by the developer that building or engineering operations have been completed to the satisfaction of and approved by the relevant authorities, the Chief Town Planner shall issue a completion certificate where the works have been carried out in

accordance with the approved plans and the terms and conditions of the planning permission.

(3) In the case of the subdivision of land, no transfer of parcels in the subdivision may be registered in the Land Registry until

- (a) a completion certificate for any engineering operations required to service parcels in the subdivision has been issued by the Chief Town Planner pursuant to subsection (2);
- (b) a detailed survey of the subdivision has been carried out by a licensed land surveyor and all the boundaries within the subdivision have been marked out on the ground in accordance with the *Land Boundaries (Land Survey) Regulations, 1993* (S.I. 1993 No. 55); and
- (c) the survey plan of the subdivision is certified by the licensed land surveyor has been submitted to the Board for approval and lodged in the Land Registry.

Severance of a parcel of land

51.(1) For the avoidance of doubt, it is hereby declared that the foregoing provisions of this Part related to the subdivision of land do not apply where an application for planning permission is made

- (a) to subdivide a parcel of land which abuts on to an existing right of way access road or higher class of road, provided that each of the parcels to be created
 - (i) abuts on to the existing road or right of way;
 - (ii) exceeds the minimum parcel size for residential lots;
 - (iii) is adequately drained; and
 - (iv) has independent access to a public water supply and electricity distribution lines; or

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- (b) to make adjustments to the boundaries of parcels of land or create rights of way or other easements over land.
- (2) In subsection (1), “access road” has the meaning assigned to it by the Development Order.
- (3) In every case to which this section applies, after planning permission has been granted, a survey plan of the approved subdivision, stamped and signed by the licensed land surveyor shall be submitted to the Board for approval before being lodged in the Land Registry.

PART VI

PROTECTION OF THE CULTURAL AND NATURAL HERITAGE

Interpretation of this Part

52. In this Part and any regulations, orders, or notices made, given or served under this Part, unless the context otherwise requires:

“cultural heritage” includes

- (a) monuments namely buildings and other architectural works, works of monumental sculpture and painting, elements or structures of an archeological nature, inscriptions, cave dwellings and combinations of features, which are of outstanding value from the point of view of history, art or science;
- (b) groups of buildings namely groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding value from the point of view of history, art or science; and
- (c) sites namely works of man or the combined works of nature and of man, and areas including archeological sites which are of outstanding

value from the historical, aesthetic, ethnological or anthropological points of view; and

“natural heritage” includes terrestrial and marine

- (a) natural features consisting of physical and biological formations or groups of such formations, which are of outstanding value from the aesthetic or scientific point of view;
- (b) geological and physiological formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants of outstanding value from the point of view of science or conservation;
- (c) natural sites or precisely delineated natural areas of outstanding value from the point of view of science, conservation or natural beauty.

Listing of cultural heritage buildings, monuments and sites

53.(1) The Minister shall cause to be compiled lists of buildings, monuments and sites of prehistoric, historic or architectural merit or interest, or may adopt, with or without modifications, any such lists compiled by the Barbados National Trust or other bodies or persons, and may amend any lists so compiled from time to time.

(2) Before the Minister compiles, adopts or amends any list under this section, the Board shall cause reasonable steps to be taken to ensure that

- (a) adequate publicity is given to the proposed listing of any building, monument or site; and
- (b) the owner and occupier of the building or land and any other person who wishes to make any objections or representations with respect to the proposed listing of any building, monument or site, is invited and given an adequate opportunity to do so.

(3) Any objections or representations made with respect to the proposal shall be taken into account by the Minister in deciding whether the building, monument or site should be listed.

(4) As soon as may be practicable after the inclusion of any building or other monument or site on any list compiled or adopted under subsection (1), or any amendments to a list have been made, the Board shall serve notice on every owner and occupier of the building or other monument or land stating that the building or other monument or site has been included in or removed from the list, as the case may be, and the Minister shall cause an order (in this Act referred to as a “Cultural Heritage Preservation Order”) listing the affected buildings, monuments or sites to be published in the *Official Gazette* and a daily newspaper in general circulation in Barbados.

(5) The Chief Town Planner shall make an up to date copy of the list of cultural heritage buildings, monuments and sites published in the *Official Gazette* available by inspection by members of the public, free of charge during normal business hours, at the office of the Department, and shall publish an electronic copy of the list on the internet.

(6) For the avoidance of doubt, it is hereby declared that no compensation shall be payable to the owner of any property included in a Cultural Heritage Preservation Order which depreciates in open market value as a result of the restrictions placed thereby on its use or development.

Effect of listing

54.(1) Subject to this section, no person shall execute any works for the demolition or alteration of a listed building, monument or site, except minor works which would not materially affect its character, whether or not such works would ordinarily constitute development or permitted development under this Act, without applying for and receiving planning permission.

(2) When the Board receives an application for planning permission for any proposed works under subsection (1), the Board shall consult with the Barbados National Trust and such other bodies or persons having special knowledge of buildings, monuments and sites of prehistoric, historic or architectural merit or interest, as may be specified by direction of the Minister, before granting planning permission for the execution of the proposed works.

(3) Subject to subsection (4), a person who executes or causes to be executed any work for the demolition or alteration of a listed building, monument or the disturbance of a listed site for which the Board has not granted prior planning permission or in breach of any condition subject to which the Board granted such permission, is guilty of an offence and is liable on summary conviction to a fine of \$500 000 or 10 years imprisonment or both.

(4) Nothing in this section shall render unlawful the execution of any works which are urgently necessary in the interests of safety or health or for the preservation of a listed building, monument or site, or of neighbouring property, provided that an application for planning permission to regularise the unauthorised development is made to the Board, pursuant to section 31, as soon as may be practicable after the necessity for the work arises.

(5) An application for the retrospective approval of works to a listed building or other monument or site, made pursuant to subsection (4), shall be accompanied by a certificate issued by a registered professional architect or engineer verifying that the building or engineering operations carried out without prior planning permission were urgently necessary.

Interim protection

55.(1) Where it appears to the Minister to be expedient to make urgent provision for the preservation of any unlisted building, monument or site, the Minister may by order (in this Act referred to as an “Interim Listing Order”) published in the *Official Gazette* and a daily newspaper in Barbados, restrict the demolition, alteration or extension of that building, monument or disturbance of that site.

(2) An Interim Listing Order shall

- (a) specify the building or other monument or site to which it applies;
 - (b) state the effect of the order and the date on which it comes into force;
- and

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- (c) invite the owners and occupiers of the building or land to which it applies to make any objections or representations with respect to the order within 28 days after it comes into force.
- (3) A copy of the Interim Listing Order shall
- (a) be posted or affixed in a prominent place on the building or land to which it applies; and
 - (b) served on every owner and occupier of the property to which it applies.
- (4) An Interim Listing Order remains in force for a period of 6 months and ceases to have any effect at the end of that period unless the building, monument or site to which it applies is listed by the Minister before the end of that period.
- (5) When an Interim Listing Order is in force with respect to any building, monument or site, the provisions of this Act have effect in relation to it as if that building, monument or site were a listed building, monument or site.
- (6) Where any works have been carried out in contravention of an Interim Listing Order, the Minister may require the restoration of the affected building or other monument or site to its former state.
- (7) Where, after an Interim Listing Order has been issued, the Minister decides not to list the building, monument or site to which the order relates, the Minister shall not serve a fresh Interim Listing Order with respect to the same building, monument or site within a period of 12 months from the date when the previous notice ceased to have effect.

Conservation and rehabilitation of listed buildings, monuments and sites

- 56.(1)** Every owner and occupier of a listed building, monument or site is responsible for the conservation and rehabilitation of that building, monument or site.
- (2) The Board shall, as far as practicable, assist the owners and occupiers of listed buildings, monuments and sites in procuring financial and technical

assistance for the purposes of the conservation and rehabilitation of such buildings, monuments or sites.

(3) Where any works have been carried out on a listed building, monument or site in contravention of a Cultural Heritage Preservation Order or Interim Listing Order, the Board may serve on the owner or occupier a notice requiring that such steps as may be specified in the notice for restoring the building, monument or site to its former state be taken within such period as may be so specified.

(4) Where the owner or occupier of a listed building, monument or site neglects or refuses to comply, within the specified time, with the requirements of a notice served pursuant to subsection (3)

(a) the Board may, enter upon the premises and take the steps required to conserve or rehabilitate the listed building, monument or site and recover as a simple contract debt in any court any expenses reasonably incurred for these purposes from the owner of the land; or

(b) the Crown may compulsorily acquire the building, monument or site in accordance with the provisions of the *Land Acquisition Act*, Cap. 228.

Heritage Conservation Areas

57.(1) The Minister may by order (in this Act referred to as a “designation order”) published in the *Official Gazette*, designate any area containing a group of separate or connected buildings which, because of their history, architecture, homogeneity or place in the landscape, are of outstanding cultural heritage value, including such other land in the vicinity of that group of buildings as is necessary to provide a peripheral protection belt or buffer zone, as an Heritage Conservation Area.

(2) Before making a designation order pursuant to subsection (1), the Minister shall cause to be taken reasonable steps to ensure that

(a) adequate publicity is given to the proposed designation of the area, including where appropriate the holding of a public meeting; and

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- (b) the owners and occupiers of buildings and land in the area, and any other person who wishes to make objections or representations with respect to the proposed designation of the area, are invited and given an adequate opportunity to do so.
- (3) The Minister shall take any objections or representations made with respect to the proposal are taken into account in deciding whether the area should be designated.
- (4) The Minister shall, in a designation order, specify restrictions or conditions for the protection of buildings and other land within a Heritage Conservation Area.
- (5) Any person who, being the owner or occupier of a building or other land within a Heritage Conservation Area, contravenes the restrictions or conditions for the protection of buildings or other land within that area specified in the designation order, is guilty of an offence and is liable on summary conviction to a fine of \$250 000 or 5 years imprisonment or both.
- (6) Nothing in this section shall render unlawful the execution of any works which are urgently necessary in the interests of safety or health or for the preservation of a building or other land within a Heritage Conservation Area, provided that an application for planning permissions to regularise the unauthorised development is made to the Board, pursuant to section 31 as soon as may be practicable after the necessity for the work arises.
- (7) An application for the retrospective approval of works to a building or other land, made pursuant to subsection (6) shall be accompanied by a certificate issued by a registered professional architect or engineer verifying that the building or engineering operations carried out without prior planning permission were urgently necessary.
- (8) For the avoidance of doubt, it is hereby declared that no compensation is payable to the owner of any property within an area declared as a Heritage Conservation Area which depreciates in open market value as a result of any restriction placed on its use or development by the designation order.

Protection of Natural Heritage

58.(1) The Minister may cause to be compiled, and from time to time amended, lists of places of natural beauty or natural interest, including submarine and subterranean areas, and their flora and fauna.

(2) Where the Minister is of the view that it is desirable to afford special protection to any area on a list compiled under subsection (1), the Minister may by order (in this Act referred to as a “protected area declaration”) published in the *Official Gazette* declare that area to be a protected area.

(3) Before making an order pursuant to subsection (2), the Minister shall take reasonable steps to ensure that

- (a) adequate publicity is given to the proposed declaration within the area which it proposes to protect, including if appropriate the holding of a public meeting;
- (b) persons who may wish to make representations with respect to the proposed declaration are invited and given an adequate opportunity to make representations on the proposal; and
- (c) any representations made on the proposal are taken into account in deciding whether the order should be made.

(4) An order made under subsection (2) may

- (a) authorise the carrying out within the protected area of such works as may be expedient for the protection or rehabilitation of the environment in the area;
- (b) require that an environmental impact assessment be carried out in respect of every application for development within the area;
- (c) restrict or prohibit development, or development of any class, within the area;

- (d) provide for the control over the use of land within the area for the purposes of agriculture, forestry or fisheries; or
 - (e) restrict or prohibit the entry of persons into the area or the movement of persons or the carrying out of activities by persons within the area.
- (5) Any person who, being the owner or occupier of land in relation to which a protected area declaration is in force, contravenes any restrictions, prohibitions or controls on the use of such land specified in the order or any other person who enters upon such land and carries out any restricted or prohibited activity in contravention of the order is guilty of an offence and is liable on summary conviction to a fine of \$100 000 or 2 years imprisonment or both.
- (6) For the avoidance of doubt, it is hereby declared that no compensation shall be payable to the owner of any land within an area declared as a protected area which depreciates in open market value as a result of any restriction placed on its use or development by the protected area declaration.

Tree preservation orders

59.(1) Where it appears to the Minister that it is expedient in the interests of amenity, soil conservation or the recovery or rehabilitation of areas degraded by the clearance of vegetation, fire or any natural hazard event, to make provision for the preservation of trees, groups of trees or woodlands in any part of Barbados, then subject to this section, the Minister may for that purpose make an order (in this Act referred to as a “tree preservation order”) with respect to such trees, groups of trees or woodlands as may be specified in the order.

- (2) Provision may be made in any tree preservation order for
- (a) for prohibiting (subject to any exemption specified in the order) the felling, topping, lopping, or wilful damage to or destructions of trees, except with the consent of the Board, and for any such consent to be granted subject to conditions;

- (b) for securing the replanting, in such manner as may be prescribed by or under the order, of any part of a wooded area which is felled in the course of any operations permitted by or under the order; and
 - (c) for applying in relation to any such consent under the order and to applications for such consent, any of the provisions of Part IV relating to permission to develop land and to such applications for such permission, as may be specified in the order.
- (3) Every tree preservation order shall define the position of the group of trees or woodlands to which it relates and for that purpose shall include a map of a scale which shows definitively the boundaries of the area protected, or shall refer to such a map kept for inspection at the Department.
- (4) Subsections (2), (3) and (4) of section 53 apply *mutatis mutandis* to the making of tree preservation orders as they apply to the listing of cultural heritage buildings, monuments and sites.
- (5) Without limiting the other exemptions for which provision may be made by a tree preservation order, no such order applies to the cutting down, topping or lopping of trees by a statutory undertaker in compliance with any obligation imposed or in the exercise of any power conferred on them by any Act, statutory instrument or other enactment.
- (6) Any person who contravenes a tree preservation order is guilty of an offence and is liable on summary conviction to a fine of \$50 000 and in the case of a continuing offence, to a further fine of \$1000 for every day after the first day during which the contravention is so continued.
- (7) For the avoidance of doubt, it is hereby declared that no compensation shall be payable to the owner of any tree, group of trees or woodland with respect to any loss or expense incurred in consequence of the measures to preserve such trees imposed by a tree preservation order.
- (8) This section takes effect subject to the provisions of the *Cultivation of Trees Act*, Cap. 390 and the *Trees (Preservation) Act*, Cap. 397, governing licences and permits to cut down trees.

Planning permission to include provisions concerning trees

60.(1) Whenever it is appropriate, in granting planning permission for any development, the Board shall ensure that adequate provision is made by the imposition of conditions for the preservation or planting of trees.

(2) Where any planning permission is granted subject to conditions for the preservation or planting of trees, the Board may require the applicant, before commencing the development permitted thereby, to deposit in a special account in the Treasury an amount of money specified by the Board as security against any failure to preserve or plant such trees.

(3) Where an applicant fails to do anything in respect of which a deposit is made under subsection (2), the Board may authorise the Chief Town Planner to enter upon the land and cause such thing to be done in accordance with the planning permission and deduct the costs thereof from the amount of the deposit.

(4) Where there is an unexpended balance on the account after a deduction is made under subsection (3), that balance shall be repaid to the applicant by the Accountant-General, upon being made to the Accountant-General accompanied by proof that the required measures for the preservation or planting of trees development have been carried out in accordance with the conditions of the planning permission.

Preservation of amenity

61.(1) Where it appears to the Chief Town Planner that the amenity of any part of Barbados is, or is likely to be, despoiled by the condition of any building, vacant site or other open land, then, the Board may serve on the owner or occupier of the building or other land a notice (in this Act referred to as an “amenity notice”) requiring that such steps to remediate the condition of the building or other land as may be specified in the notice be taken within such period as may be specified in the notice.

- (2) Subject to subsection (2) of section 63, an amenity notice under this section takes effect at the end of such period, not being less than 28 days after the services of the notice, as may be specified in the notice.
- (3) A person who fails to comply with an amenity notice served on them under this section is guilty of an offence and is liable on summary conviction to a fine of \$50 000 and in the case of a continuing offence, to a further fine of \$1000 for every day after the first day during which the failure to comply is continued.
- (4) Where a person on whom an amenity notice is served under this section fails to comply with the notice, the Board may authorise the Chief Town Planner to enter upon the land with such assistance as may be necessary and take such measures or do such work as is necessary to effect compliance with the notice.
- (5) Any expenses incurred by the Chief Town Planner in respect of anything done under subsection (4) are a debt due to the Crown from the person on whom the notice has been served, which the Crown may recover as a civil debt in a court of competent jurisdiction.

Fixed Penalty Notices

62.(1) Without prejudice to the rights of the Board to take any other steps under this Act, where the owner or occupier of land commits an offence under this Part, the Chief Town Planner may give that person a fixed penalty notice charging that person with the commission of the offence and requiring them to pay a fixed penalty for the offence within the time specified in the notice, or to appear at the court of law specified in the notice on the date and time specified therein to answer the offence charged.

- (2) A fixed penalty notice given under subsection (1) shall be in the prescribed form, signed by the Chief Town Planner and specify
- (a) the name and address of the person liable for the alleged offence to whom the notice is given;
 - (b) the date, time and place at which the notice was given to the person liable for the alleged offence;

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- (c) the section of this Act creating the alleged offence and such particulars of the offence as are required under the *Magistrate's Courts Act*, Cap. 116A;
 - (d) the date by which the fixed penalty is payable, which shall be 10 days from the date of the notice;
 - (e) the amount of the fixed penalty;
 - (f) the clerk of the court to whom and the address at which or to which the fixed penalty may be paid or remitted; and
 - (g) the address of the magistrate's court at which the person is required to appear to answer the charge, in the event that the fixed penalty is not paid within the specified time, and the date and time at which the person is required to appear at the said court.
- (3) The Chief Town Planner shall send a duplicate copy of the fixed penalty notice to the clerk of the court with jurisdiction over the area in which the offence is alleged to have been committed and the said copy of the notice is deemed to be a complaint within the meaning of the *Magistrate's Courts Act*, Cap. 116A.
- (4) Payment of the fixed penalty must be made to the clerk of the court having jurisdiction over the area in which the offence is alleged to have been committed within the time specified therein and, when the fixed penalty is duly paid in accordance with the notice, the person named in the notice is not liable to be continued of the offence specified on the notice.
- (5) Notwithstanding any enactment to the contrary, the fixed penalty notice given to the person is liable for the alleged offence is, from the expiration of the time specified therein for payment of the fixed penalty, deemed to be a summons issued in accordance with the *Magistrate's Courts Act*, Cap. 116A.
- (6) Where the fixed penalty is not paid within the time specified in the notice, proceedings in respect of the offence specified in the notice shall proceed in the manner specified in the *Magistrate's Courts Act*, Cap. 116A.

(7) The Minister may make regulations subject to negative resolution, providing for any matter incidental to the operation of this section, and in particular for prescribing

- (a) the form of fixed penalty notice to be given by the Chief Town Planner; and
- (b) the fixed penalty payable for each offence under this Part.

Appeals under this Part

63.(1) Any person aggrieved by a decision of the Board made under this Part may, within 28 days of the date of that decision, appeal against that decision to the Tribunal in accordance with Part XI, setting out the grounds upon which the appeal is made.

(2) A person upon whom a notice under section 56(3) is served, or any other person having an interest in the building, monument or site to which the notice relates, may, at any time within the period specified in the notice at the end of which it is to take effect, appeal to the Tribunal against the notice on any of the following grounds

- (a) that the works to which the notice relates were not, or were not wholly, works in contravention of the provisions of section 56(1);
- (b) that the works to which the notice relates were urgently necessary in the interests of health and safety or for the preservation of the listed building, monument or site, or of neighboring property and an application has been made to the Board in accordance with section 54(3);
- (c) that the requirements of the notice exceed what is necessary for restoring the building, monument or site to its condition before the works to which the notice relates were carried out;
- (d) that the period specified in the notice as the period within which any steps required by the notice to be taken falls short of what should reasonably be allowed; or

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- (e) that any of the steps required by the notice to be taken would not serve the purpose of restoring the character of the building, monument or site to what it was before the works to which the notice relates were carried out.
- (3) A person upon whom an amenity notice under section 61(1) is served, or any other person having a interest in the building or land to which the notice relates, may, at any time within the period specified in the notice at the end of which it is to take effect, appeal to the Tribunal against the notice on either of the following grounds
- (a) that the requirements of the notice exceed what is necessary for remediating the condition of the building, monument or site to preserve the amenity of the area; or
- (b) that the period specified in the notice as the period within which any steps required by the notice to be taken falls short of what should reasonably be allowed.
- (4) When an appeal is brought under this section, the decision or notice to which it relates is of no effect pending the final determination or withdrawal of the appeal.

PART VII

CONTROL OF OUTDOOR ADVERTISEMENTS

Advertisement Control Regulations

64.(1) Subject to this section, the Minister may make regulations under this Act for restricting or regulating the display of advertisements in the interest of amenity or public safety, hereinafter referred to as “Advertisement Control Regulations”.

(2) Without restricting the generality of subsection (1), any Advertisement Control Regulations may provide for:

- (a) regulating the dimensions, materials appearance and position of advertisements that may be displayed, the sites on which the advertisements may be displayed, and the manner in which they are to be affixed to land;
- (b) requiring the consent of the Board to be obtained for the display of advertisements, or of advertisement of any class specified in the regulations;
- (c) charging application and license fees with respect to the processing of applications for such consent and for the display of advertisements of different types;
- (d) for applying, in relation to any such consent and to applications for such consent, any of the provisions of Part IV relating to planning permissions and to applications for such permission, subject to such adaptations and modifications as may be specified in the regulations; and
- (e) for enabling the Board to require the removal of any advertisement that is being displayed in contravention of the regulations, or the discontinuance of the use for the display of advertisements of any site that is being used for that purpose in contravention of the regulations, and for that purpose for applying any of the provisions of Part VIII with respect to enforcement notices, subject to such adaptations and modifications as may be specified in the regulations.

(3) Advertisement Control Regulations made under this Act may direct that any Act, regulations or bylaws, affecting the display of advertisements in force on the day when the regulations made under this Act come into operation, do not apply to the display of advertisements in any area to which the Advertisement Control Regulations made under this Act apply.

Existing outdoor advertisements

65.(1) Advertisement Control Regulations made under section 64 may be made so as to apply to advertisements that are being displayed on the date on which the regulations come into force, or to the use for the display of advertisements of any site that was being used for that purpose on that date.

- (2) Regulations made under this section may make exceptions with respect to
- (a) the continued display of any such advertisement as is referred to in subsection (1); and
 - (b) the continued use for the display of advertisements of any such site as is referred to in subsection (1), during such period as may be prescribed by the regulations, and different periods may be so prescribed for the purposes of different provisions of the regulations.

Special provisions for particular areas

66. Advertisement Control Regulations made under this Act may make different provisions with respect to different areas and in particular may make special provision with respect to areas defined in the regulations as areas which require special protection on the grounds of amenity.

Exercise of advertisement control powers

- 67.** In exercising the powers conferred on it by this Part the Board shall
- (a) in the interests of amenity, determine the suitability of sites for the display of advertisements having regard to any development plan applicable to the area and to the general characteristics of the locality including the presence of any feature of architectural, historic, cultural or similar interest and the natural beauty or scenic value of the locality; and
 - (b) in the interests of public safety, determine the suitability of sites for the display of advertisements having regard to the safety of persons who

may use any road, dock, harbour or airfield and in particular consider whether any display of advertisements on the site is likely to hinder or obscure any road or traffic sign or any aid to navigation by air or water.

Supplementary provisions as to advertisements

68.(1) Where the display of advertisements in accordance with Advertisement Control Regulations involves the development of land within the meaning of this Act permission for that development is deemed to be granted by virtue of this section, and no application is necessary in that behalf under the provisions of Part IV.

(2) Without prejudice to any regulations made under section 104, any person who displays an advertisement in contravention of the provisions of the Advertisement Control Regulations is liable on summary conviction to a fine of such amount as may be prescribed by the Advertisement Control Regulations, not exceeding \$50 000, and, in case of a continuing offence, to a further fine not exceeding \$1000 for every day after the first day during which the display is so continued.

(3) For the purposes of subsection (2) and without restricting the generality thereof, a person is deemed to display an advertisement where

- (a) the advertisement is displayed on the land of which that person is the owner or occupier; or
- (b) the advertisement gives publicity to the goods, trade, business or other concerns of that person.

(4) A person is not guilty of an offence under subsection (2) by reason only that an advertisement is displayed on land of which they are the owner or occupier, or that their goods, trade, business or other concerns are given publicity by the advertisement, where they prove that it was displayed without their knowledge or consent.

PART VIII

ENFORCEMENT

Power to serve an Enforcement Notice

69.(1) The Board may, if it considers it expedient to do so having regard to the provisions of the physical development plan for the area, if any, and to any other material considerations, serve a notice (in this Act referred to as an “enforcement notice”) under this section, if it appears to it that

- (a) any development of land has been carried out without planning permission required under Part IV; or
 - (b) any development of land has been carried out in breach of any conditions or limitations subject to which planning permission is granted pursuant to section 32 or section 33, or by a development order made under section 23.
- (2) An enforcement notice shall be served within 4 years of the development being carried out or, in the case of non-compliance of any condition or limitation, within 4 years of the date of the alleged failure to comply.
- (3) An enforcement notice
- (a) shall be served on the owner and on the occupier of the land to which it relates; and
 - (b) may, if the Board thinks fit, be served on any other person having an interest in that land which is materially affected by the notice; and
 - (c) on any other person carrying on activities on the land which are alleged to constitute a breach of the planning control, or causing such activities to be carried on.
- (4) The fact that the Board fails to serve an enforcement notice on the persons mentioned in subsection (3) does not invalidate any action or proceedings under the notice against any other of those persons.

- (5) An enforcement notice
- (a) shall specify the development that is alleged to have been carried out without planning permission, or the matters in respect of which it is alleged that the development does not comply with the conditions or limitations subject to which planning permission was granted, as the case may be; and
 - (b) may require such steps as are specified in the notice to be taken, within a specified period, for restoring the land to its condition before the unauthorised development took place or for securing compliance with the conditions or limitations subject to which development was permitted, as the case may be, including but not limited to
 - (i) the discontinuation of any use of land or the carrying out of any building, engineering, mining or other operations on the land; and
 - (ii) the demolition or alteration of any building, engineering, mining or other works on the land.
- (6) Subject to this Part, an enforcement notice takes effect on the expiration of 28 days from the date of service of the notice on either the owner or occupier of the land.
- (7) Compliance with an enforcement notice does not discharge the enforcement notice.
- (8) The Board may at any time revoke an enforcement notice without affecting the power to serve another enforcement notice in respect of the same alleged breach of the provisions of this Act.
- (9) Where an enforcement notice is revoked under subsection (8), the Board shall serve notice of the revocation on every person on whom the enforcement notice was served.

Application to retain unauthorised development

70.(1) Where, before the enforcement notice takes effect, an application is made to the Board in accordance with section 31 for the retention on land of any buildings or works or the continuance of any use of the land to which the enforcement notice relates, the operation of the enforcement notice is suspended pending the determination of that application.

(2) Where the Board grants planning permission for the retention on land of buildings or other works or for the continuation of a use of land to which the enforcement notice relates, the enforcement notice ceases to have effect in so far as it requires steps to be taken for the demolition or alteration of those buildings or works or the discontinuance of that use, as the case may be.

(3) Where on an application made under this section the Board agrees to vary some condition or limitation subject to which planning permission was granted, the enforcement notices ceases to have effect in so far as it requires steps to be taken to comply with that condition or limitation.

Stop notice

71.(1) Where the Board has served an enforcement notice in respect of any land, the Board may, at any time before the enforcement notice takes effect, subject to any direction given by the Minister, serve a further notice (in this Act referred to as a “stop notice”) prohibiting any person on whom the stop notice is served from carrying out or continuing any building, engineering, mining or other operations on the land, being activities either alleged in the enforcement notice to constitute a breach of planning control or so closely associated therewith as to constitute substantially the same development.

(2) A stop notice served under subsection (1) shall contain a reference to, and have annexed to it, a copy of the enforcement notice served in respect of the unauthorised development of land to which the stop notice relates.

(3) A stop notice may be served by the Board on any person who has an interest in the land or appears to the Board to be concerned with the carrying out or continuance of any unauthorised operations thereon.

(4) A stop notice

- (a) takes effect from the date of its service; and
- (b) without affecting subsection (5), ceases to have effect when
 - (i) the enforcement notice to which it relates is revoked by the Board under section 69(8) or quashed by a court of law;
 - (ii) permission is granted for the retention of the building, works or other operations in accordance with section 70;
 - (iii) a person is convicted of an offence under section 74; or
 - (iv) the Chief Town Planner enters on the land in accordance with section 75.

(5) The Board may at any time revoke a stop notice (without prejudice to their power to serve another) by serving notice to that effect on the person on whom the stop notice was served and the stop notice ceases to have effect as from the date of withdrawal.

(6) Where a stop notice is revoked under subsection (5), the Board shall serve notice of the revocation on every person on whom the stop notice was served.

(7) Where a stop notice takes effect in relation to works being carried out by a person (hereinafter referred to as “the contractor”) under a contract with another person (hereinafter referred to as “the developer”), and the works are discontinued by the contractor in compliance with the notice, the developer is under the same liability in contract as if the operations were discontinued on instructions given to the contractor by the developer in breach of contract, unless the contract explicitly provides to the contrary.

Appeals against Enforcement and Stop Notices

72.(1) Before the enforcement notice takes effect, any person on whom the notice is served who is aggrieved by the enforcement notice or, where a stop notice has also been served, the stop notice, may lodge an appeal to a Judge in chambers, in accordance with the applicable rules of court, against the enforcement notice or the stop notice or both such notices on any of the following grounds

- (a) that what is assumed in the enforcement notice to constitute development did not constitute or involve development within the meaning of this Act;
- (b) that planning permission has been granted for the development to which the enforcement notice relates under Part IV;
- (c) that the development is of a class of permitted development specified in a development order made under section 23;
- (d) that the development complies with the conditions or limitations subject to which permission for the development was granted;
- (e) that the enforcement notice was not served within the period of 4 years specified in section 69(2);
- (f) that the requirements of the enforcement notice exceed what is reasonably necessary for restoring the land to its condition before the development in question took place or, as the case may be, for securing compliance with the conditions or limitations to which the enforcement notice relates;
- (g) that the period specified in the enforcement notice as the period within which any steps are to be taken falls short of what should reasonably be allowed;

- (h) that the enforcement notice or the stop notice, as the case may be, was not served on the appellant in accordance with the provisions of section 97; or
 - (i) that there are fundamental defects or errors in the enforcement notice or the stop notice, as the case may be.
- (2) Where an appeal is made under this section, the enforcement notice is of no effect pending the determination or withdrawal of the appeal.
- (3) On an appeal under this section, the Judge may correct any informality, defect or error on the face of the enforcement notice, if the Judge is satisfied that the informality, defect or error is not a material one and the correction is not prejudicial to the appellant.
- (4) Where a stop notice has been served pursuant to section 71, the hearing of an appeal against the stop notice or the enforcement notice related to the stop notice is deemed to be a case for urgent hearing by the court.
- (5) On the determination of an appeal under this section, the Judge shall give reasons for the court's decision and directions for giving effect to that decision including, where appropriate, directions or for varying the enforcement notice in accordance with subsection (3) or for quashing the enforcement notice or stop notice to which the appeal relates.
- (6) Where an enforcement notice is varied by the Judge or the appeal is dismissed, the Judge may direct that the enforcement notice does not come into force until such date as ordered by the court, not being less than 28 days from the determination of the appeal.
- (7) On the determination of an appeal under this section, the Board or the appellant may appeal to the Court of Appeal against the decision of the Judge in chambers.

Compensation for loss due to stop notice

73.(1) Where a stop notice ceases to have effect, a person who at the time when it was first served had an interest in the land to which it relates is, in any

of the circumstances mentioned in subsection (2), entitled to be compensated by the Crown in respect of any loss or specific damages directly attributable to the prohibition contained in the notice.

- (2) A person is entitled to compensation under subsection (1) where
- (a) the enforcement notice to which the stop notice refers is quashed by a court of law on any of the grounds specified in subsection 72(1);
 - (b) an allegation in the enforcement notice upon which the prohibition in the stop notice depends is not upheld because the enforcement notice is varied in any material way on appeal to a Judge in chambers under section 72;
 - (c) the enforcement notice is revoked by the Board, otherwise than in consequence of the grant or variation of a planning permission pursuant to an application to retain the unauthorised development made under section 70;
 - (d) the stop notice is revoked by the Board under section 71(5).
- (3) A claim for compensation under this section shall be made to the Crown within such time and in such manner as are prescribed by the Minister.
- (4) The loss or specific damages in respect of which compensation is payable under this section includes a sum payable by any person for breach of contract caused by the taking of action necessary to comply with prohibition in the stop notice.
- (5) Compensation payable under this section shall, in default of agreement, be determined by the procedure laid down in the *Land Acquisition Act*, Cap. 228.

Proceedings for non-compliance with notices

74.(1) Where by virtue of an enforcement notice any building, engineering, mining or other operations or any use of land is required to be discontinued, or compliance is required with any conditions subject to which development was permitted, any person who carries out, or causes or permits those operations to

be carried out or that use of land to continue, in contravention of the enforcement notice, is guilty of an offence and is liable on summary conviction to

- (a) a fine of \$100 000; and
 - (b) a further fine of \$10 000 a day for every day after the notice comes into force during which the operations were carried on or the use of land was continued in contravention of the enforcement notice.
- (2) Without prejudice to subsection (1), where an enforcement notice has been served on a person who, at the time when the notice was served, was the owner of the land to which the notice relates, then, if the steps specified in the notice to be taken have not been taken within the time allowed for compliance with the notice, that person is guilty of an offence and liable on summary conviction to a fine of \$200 000.
- (3) Where a person on whom a stop notice is served carries out, or causes or permits to be carried out any unauthorised building, engineering, mining or other operations prohibited by the notice, that person is guilty of an offence and is liable on summary conviction to:
- (a) a fine of \$500 000; and
 - (b) a further fine of \$50 000 for each day after the notice was served during which the prohibited operations continue.

Power to remove or alter works

75.(1) Where a person on whom an enforcement notice was served fails or refuses to take the steps required by the enforcement notice to remedy the breach of planning control within the period specified in the enforcement notice, after the expiry of that period, the Board without prejudice to their right to take summary proceedings for a fine in respect of the contravention of the enforcement notice and the stop notice, may authorise the Chief Town Planner to enter the land with such assistance as may be necessary and take those steps in respect of the unauthorised development to enforce the notice as it may see fit.

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- (2) When the Board has exercised any power under subsection (1), it may recover as a civil debt, from the person on whom the notice has been served, those expenses reasonably incurred by it in the exercise of such power, in a court of competent jurisdiction.
- (3) A person who is entitled to appeal against an enforcement notice under section 72, and has failed to make such an appeal, is not entitled in any proceedings to dispute the validity of the action taken by the Board or the Chief Town Planner upon any ground that could have been entertained on such an appeal.
- (4) Without affecting the operation of section 74, a person who, without having first obtained a planning permission, carries out any development on land by way of reinstating or restoring buildings or other works that have been demolished or altered in accordance with an enforcement notice, pursuant to this section, is guilty of an offence and liable on summary conviction to a fine of \$250 000.

Recovery of expenses

76.(1) Any expenses incurred by the owner or occupier of land for the purpose of complying with an enforcement notice or stop notice served in respect of any development, or paid to the Board pursuant to subsection 75(2), are deemed to be incurred or paid on behalf of and at the request of the person by whom the development was carried out.

(2) The Board may sell any materials which have been removed from any land, including any street, when taking steps pursuant to section 75, which are not claimed and removed by the owner within 7 clear days of the date of their removal.

(3) Where the Board sells any materials pursuant to subsection (2), the amount of money yielded by the sale shall be offset against the costs incurred by the Board in any proceedings for debt recovery taken under section 75(2).

Injunctions

77. In addition to any other remedy provided by this Act, the Board may, in any case that it thinks fit, institute a civil action in the Supreme Court for an injunction to prevent any person from violating the provisions of this Act, or to enforce any enforcement notice or stop notice.

Saving of existing uses

78. Nothing contained in this Part shall be construed as requiring planning permission to be required for the use of land for the purpose for which it could lawfully have been used if the development in respect of which an enforcement notice is served had not been carried out.

Effect of Enforcement Notice on subsequent development

79.(1) Compliance with an enforcement notice does not discharge the enforcement notice.

(2) Without prejudice to subsection (1), any provision of an enforcement notice requiring a use of land to be discontinued operates as a requirement that it shall be discontinued permanently, to the extent that the use is in contravention of Part IV and, accordingly, the resumption of that use at any time after it has been discontinued in compliance with the enforcement notice is, to that extent, in contravention of the enforcement notice.

(3) Without prejudice to subsection (1), if any development is carried out on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with an enforcement notice, the notice (notwithstanding that its terms are not apt for the purpose) is deemed to apply in relation to the buildings or works as reinstated or restored as it applied to the buildings or works before they were demolished or altered and, subject to subsection (4), the provisions of section 75 and 76(1) apply accordingly.

(4) Where at any time after an enforcement notice takes effect, the Board proposes to take any steps under section 75 with respect to any development is

carried by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with an enforcement notice, not less than 28 days before taking any such steps, the Board shall serve on the owner or occupier of the land a notice of their intention to take such steps.

(5) Any person who, without the grant of planning permission, carries out any development on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with an enforcement notice, is guilty of an offence and is liable on summary conviction thereof to a fine of \$250 000.

Exercise of the Board's discretion to take enforcement action

80.(1) The Board may exercise its discretion to take enforcement action under this Part on a complaint made by the Chief Town Planner or any other person, but every such complaint shall be made to the Board through the Chief Town Planner.

(2) Every complaint concerning a breach of planning control made to the Chief Town Planner by another person shall be recorded and the Chief Town Planner shall inform the complainant in writing of the decision of the Board with respect to the exercise of its discretion to take enforcement action in relation to their complaint.

(3) A document which discloses the identity of a complainant giving notice to the Board of an alleged breach of planning control, or by means of which such a person's identity may be readily discovered, shall not be included in any register or record to which members of the public have access.

PART IX

ACQUISITION OF LAND FOR PLANNING PURPOSES

Acquisition of land for planning purposes

81.(1) The Crown may compulsorily acquire any land, in accordance with the *Land Acquisition Act*, Cap. 228, as land needed for public purposes, where

- (a) the Minister, on the advice of the Board, considers that the acquisition of such land will facilitate the carrying out of development, redevelopment or improvement on or in relation to that land; or
- (b) the land is required for a purpose which it necessary or expedient to achieve proper planning of the area in which the land is situated.

(2) The power of the Crown to acquire land compulsorily pursuant to this section shall not be exercised unless the Minister, on the advice of the Board, considers that the development, redevelopment or improvement of the land will contribute to the attainment of any one or more of the following objectives

- (a) the promotion or improvement of economic well-being;
- (b) the promotion or improvement of social well-being; or
- (c) the promotion or improvement environmental well-being.

(3) Where the Minister considers it necessary or expedient, the Crown may acquire compulsorily pursuant to subsection (1) any land adjoining the land acquired for the purposes of development, redevelopment or improvement which is reasonably required for the purposes of facilitating the development or use of such land.

(4) Nothing in this section shall be deemed to prevent the acquisition by the Crown by agreement of any land designated as mentioned in subsection (1).

Disposal of land for development

82.(1) Any land acquired by the Crown, whether compulsorily or by agreement, under this Part may be disposed of in accordance with the *Crown Lands (Vesting and Disposal) Act, Cap. 225* to any statutory authority, statutory undertaker, or other body corporate or person for development in accordance with planning permission granted under Part IV.

(2) The Crown shall not dispose of any land acquired compulsorily pursuant to section 81 to any person or body, other than a statutory body or statutory undertaker, for the purposes of its development, unless that person or body has been selected as the result of an open and equitable procurement process.

PART X**COMPENSATION****Compensation for modification or revocation of planning permission**

83.(1) Where planning permission has been revoked or modified by notice under section 42, the Crown shall pay compensation assessed in accordance with this Part in respect of expenditure, loss or specific damages if, on a claim for compensation made to the Crown in the manner prescribed, it is shown that the holder of that permission, or their successor in title, has incurred expenditure necessarily arising out of commencing or carrying out that development in accordance with that permission or has otherwise suffered specific financial loss directly attributable to such revocation or modification.

(2) For the purposes of this section, any expenditure incurred in the preparation of plans for the purposes of any work, or upon similar matters preparatory thereto, is taken to be included in the expenditure incurred in carrying out that work.

(3) No compensation is payable under this section in respect of any work carried out before the grant of planning permission which is revoked or modified,

or in respect of any other loss or damage arising out of anything done or omitted to be done before the grant of that permission.

(4) Where planning permission has been revoked or modified by notice under section 42, the Crown shall pay compensation assessed in accordance with this Part in respect of loss due to the depreciation in value of any interest in land directly attributable to the revocation or modification of a planning permission, provided that the planning permission had not lapsed under the provisions of section 39, if

- (a) the development permitted by the planning permission modified or revoked had not been carried out before the date of modification or revocation; or
- (b) the person claiming compensation acquired an interest in the land or building to which the planning permission relates for valuable consideration, after the grant of that planning permission and before the date of modification or revocation.

Claims for compensation

84.(1) A claim for compensation alleged to be payable under this Part shall be made in writing to the Minister within 12 months of the date upon which notice of the decision which gives rise to the claim was served upon the claimant.

(2) When a claim is made under subsection (1), the Minister, by written notice served on the claimant, may require the claimant to provide such further information in support of the claim as may be specified in the notice, and a decision on the claim may be deferred until such further information is supplied by the claimant.

(3) Where a claim for compensation has been made to the Minister, the Minister shall consult the Board who, after making such enquiries as they think fit, shall submit their own recommendation on the matter to the Minister.

(4) Where a person is entitled to claim compensation under this Part for loss or damage consisting of depreciation in the value of an interest in land by virtue

of the modification or revocation of planning permission, such compensation is payable in an amount equal to the difference between the open market value of the interest in the land after the planning decision and what the open market value would have been if the planning permission had not been refused, modified or revoked.

(5) Where a claim for compensation cannot be settled through negotiation between the claimant and the Minister, the Minister shall refer the question as to whether any compensation is payable to the claimant, or as to the amount thereof, for decision by a Judge in chambers as provided by the *Land Acquisition Act*, Cap. 228, and the provisions of that Act apply *mutatis mutandis* to the assessment of compensation payable under this Part as they apply in the case of compensation payable under the *Land Acquisition Act*, Cap. 228.

(6) Where a claim for compensation is made under this Part, notice of the fact shall be recorded in the register maintained in accordance with section 98.

Acquisition of land in lieu of compensation

85. Where a claim for compensation under this Part in respect of any interest in land has been determined in accordance with section 84, the Minister may, within one month after the date of the determination of such compensation and instead of having the same paid, cause to be made an offer in writing to purchase the interest in the land to which the claim for compensation relates, and if the person entitled to that interest is unwilling to sell the same, the Minister may forthwith cause the interest to be acquired compulsorily under and in accordance with the provisions of the *Land Acquisition Act*, Cap. 228.

PART XI

PLANNING APPEALS

Establishment of Appeals Tribunal

86.(1) An Appeals Tribunal is hereby established to hear and determine appeals from administrative decisions made under this Act or, where a right of appeal to the Tribunal is expressly provided for therein, under any other enactment.

(2) The Governor-General, acting on the advice of the Prime Minister, shall appoint a President and not less than 9 other persons, not being public officers, to constitute the Tribunal.

(3) The persons appointed to the Tribunal shall be qualified for appointment to the Tribunal by virtue of their training and 5 or more years' practical experience in the fields of law, physical development planning, environmental management, coastal zone management, architecture, engineering, surveying or land development.

(4) The members of the Tribunal shall be appointed by instrument under seal and hold office upon such terms and conditions and for such period of time as may be specified in the instrument of appointment.

(5) The appointment of any person to the Tribunal and the termination of any member of the Tribunal, whether by death, resignation, removal, effluxion of time or otherwise, shall be published by notice in the *Official Gazette*.

Right of appeal

87.(1) The applicant or any other person having an interest in the land (other than a mortgagee not in possession) who is aggrieved by any decision of the Board specified in subsection (2), may appeal to the Tribunal against that decision in the manner prescribed .

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- (2) An appeal lies to the Tribunal against
- (a) any decision on an application for a planning permission made pursuant to section 32;
 - (b) any decision to modify or revoke a planning permission made pursuant to section 42 or referred by the Minister pursuant to a claim for compensation under section 84;
 - (c) any decision to grant or withhold a completion certificate pursuant to section 50; and
 - (d) any other decisions of the Board or the Chief Town Planner as are prescribed by this Act or the regulations, where a specific provision is made for appeal to the Tribunal.

Clerk of the Tribunal

88.(1) The Permanent Secretary shall appoint a public officer to serve as the Clerk of the Tribunal (hereinafter referred to in this Part as “the Clerk”).

(2) Any notice of appeal and any documents submitted in support of or opposition to an appeal shall be served on the Clerk and the Clerk shall keep a written record of the proceedings of all appeals.

(3) When notice of an appeal is served on the Clerk, the Clerk shall forthwith give notice to the Board and any other party to the proceedings of the filing of the appeal.

Appointment of Appeals Panels

89.(1) Within 7 days of the filing of an appeal, the President shall appoint an Appeal Panel comprised of 3 persons, one of whom is designated as Chairperson, from amongst the members of the Tribunal, for the purpose of hearing that appeal.

(2) An Appeal Panel remains in existence until it has discharged the function for which it was appointed.

(3) For the avoidance of doubt, it is hereby declared that a member of the Tribunal shall not accept appointment to an Appeal Panel to adjudicate on any matter in which they have any interest, either directly or indirectly, personally or by their spouse, domestic partner or other near relative, including but not limited to a pecuniary or business interest.

Appointment of a person to conduct a hearing under section 33

90. Where an application is referred to the Minister for determination pursuant to section 33, the President of the Tribunal, upon the request of the Permanent Secretary, shall assign a member of the Tribunal to conduct a hearing in accordance with the provisions of that section.

Function of Appeal Panels

91.(1) The function of an Appeal Panel under this Act is to adjudicate on decisions made by the Board and the Chief Town Planner in the performance of their functions and the exercise of their powers under this Act, having regard to the reasons given for their decisions and the objections raised by the appellant, in the context of the purposes of this Act and the need to secure fairness and equity in its administration.

(2) In determining an appeal, the Appeal Panel may review the whole case in respect of law and fact, and the exercise of any discretion, and shall determine the case in accordance with its own judgment.

Procedure on appeals

92.(1) A person wishing to appeal against a decision of the Board or the Chief Town Planner shall, within 28 days of registration of that decision in the register pursuant to section 98, serve notice of appeal on the Clerk and the Board.

(2) Every such notice of appeal served on the Clerk shall be accompanied by proof of payment of the prescribed fee for filing an appeal.

(3) The Appeal Panel appointed to determine the appeal may, in its discretion, direct if the appeal is dealt with by public hearing or by written representations

and, within 28 days of receipt of the notice by appeal, shall notify the appellant, and where the appellant is not the applicant, the applicant and the Board accordingly.

(4) Unless the Appeal Panel directs that a public hearing shall be held in relation to an appeal, the appeal is dealt with by written representations.

Decision and notification

93.(1) An Appeal Panel, in deciding whether to allow or dismiss an appeal may

- (a) allow the appeal in whole or in part and quash the decision of the Board or the Chief Town Planner, as the case may be;
 - (b) Where it allows the appeal in part, do so by varying the decision in any manner and subject to any conditions or limitations it thinks fit, but not so as to impose any condition or requirement the Board or the Chief Town Planner had no power under this Act to impose when making the decision or taking the action appealed against;
 - (c) correct any procedural defect or error of law in the decision appealed against;
 - (d) dismiss the appeal and confirm the decision of the Board or the Chief Town Planner, as the case may be.
- (2) The decision of the Appeal Panel shall be delivered within 14 days of the conclusion of the hearing, whether the hearing of the appeal is conducted by written representations or public hearing, as the case may be.
- (3) Within 7 days after the decision of the Appeal Panel is made, the Clerk shall send to the appellant and to the Board written notification of the determination of the appeal together with the statement of the Appeal Panel's reasons for that determination.
- (4) The decision of the Appeal Panel, inclusive of the statement of reasons for that decision, are public records and shall be published and made available to

members of the public in documentary form at the office of the Department and in electronic form on the internet.

Appeals to the High Court

94.(1) Save as otherwise provided in this section the decision of an Appeal Panel is final.

(2) An appeal lies to a Judge in chambers from a decision of an Appeal Panel on a point of law, but not on any matter of fact, and not in any manner upon the merits of the policies applied by the Board in reaching the decision appealed against.

(3) An appeal to which subsection (2) relates shall be filed in the High Court, in accordance with any applicable rules of court, within 28 days of the notification of the decision of the Appeal Panel.

PART XII

MISCELLANEOUS

Powers of entry

95.(1) Subject to subsection (2), the Chief Town Planner, or any person authorised by the Chief Town Planner in writing, may during all reasonable working hours enter on any land or into any building

- (a) to carry out any investigation in connection with the preparation of any development plan under the provisions of Part III;
- (b) to obtain information relevant to the determination of any application for planning permission or for any other documentary authorisation under this Act;
- (c) to determine whether any breach of planning control is being or has been undertaken on the land or in any building thereon;

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- (d) to determine whether or not any compensation is payable under Part X, or to assess the amount thereof;
- (e) to ensure compliance with the Act and regulations.
- (2) Any person who enters on any land or building under the provisions of this section, without the consent of the owner or occupier, shall give the owner or occupier not less than 48 hours written notice of their intention so to do and the intended purpose of such entry and where the person entering requires to search and bore for the purpose of examining the nature of the sub-soil, that fact shall be stated in the notice.
- (3) Before exercising any powers under this section, the Chief Town Planner or any other person concerned shall provide evidence of their identity and authority to the occupier or other person who is or appears to be in control of the land or building concerned.
- (4) The powers conferred by this section are deemed to extend to permit the Chief Town Planner or other person concerned to make such examination and inquiries as are necessary to achieve the purposes for which the entry was authorised.
- (5) Where any damage is caused by reason of the exercise of any right of entry conferred by this section, or in the making of any survey for the purpose for which such right of entry was conferred, or by the wrongful or negligent use of powers, conferred, or alleged to have been conferred, by this section, the Crown as soon as may be after such entry, shall pay compensation to the person injured thereby, provided that if the amount of such compensation cannot be agreed, the amount payable is to be determined in the same manner as compensation payable under Part X, and the Chief Town Planner shall refer the matter accordingly.
- (6) Nothing in subsections (2) or (5) applies in respect of any work or operation which the Crown, the Board, or any public officer is authorised to do or carry out in relation to any building or land under Part VIII, and for those purposes, it is

declared that the Crown, the Board and any public officer has a right to enter on any land or in any building at all reasonable working hours

- (a) for the purpose of ascertaining whether there is, or has been, on or in connection with the premises, a contravention of this Act or the regulations;
- (b) for the purpose of ascertaining whether or not circumstances exist that would authorise or require the Board to take any action, or execute any work, under Part VI or Part VIII of this Act;
- (c) for the purpose of taking any action, or executing any work, authorised or required by Part VI or Part VIII of this Act or by notice made thereunder; or
- (d) generally for the purpose of the performance by the Board of its functions under this Act.

(7) No compensation is payable in respect of the exercise of any power specified in this section.

(8) Any person who hinders or obstructs the Board or any public officer in the exercise of any power of entry is guilty of an offence and is liable on summary conviction to a fine of \$50 000 or to imprisonment for 6 months or both.

Power to require information

96.(1) For the purpose of enabling the Minister, the Board or the Chief Town Planner to make an order or serve a notice or other document under the provisions of this Act, the Chief Town Planner may require the owner or the occupier of any premises, and any person who either directly or indirectly receives rent in respect of any land or premises, to state in writing the nature of their interest therein, and the name and address of any other person known to them to have an interest therein, whether as a freeholder, mortgagee, lessee or otherwise.

(2) Any person who, having been required in pursuance of this section to give any such information, without reasonable cause fails to give that information within 28 days of being so required, or such longer period as the Chief Town

Planner may allow in any particular case, is guilty of an offence and liable on summary conviction to a fine of \$50 000.

(3) Any person to whom information has been given under this section, or otherwise under this Act, or who has obtained any information in the course of their duties under this Act, who makes any unauthorised disclosure of that information to any person who is not required to receive that information is guilty of an offence and liable on summary conviction to a fine of \$50 000 or to imprisonment of 6 months, or to both.

Service of notices

97.(1) Any notice or other document required or authorised to be given or served under this Act or under any regulation, order, direction or other statutory instrument made under this Act may be served on or given to the person concerned

- (a) by delivering it to that person;
- (b) by leaving it at the usual or last known place of abode of that person;
- (c) by sending it by registered mail addressed to that person at their usual or last known place of abode or, where an address for service has been given by that person, at that address; or
- (d) in the case of a body corporate, or other body, by delivering it to the secretary or other officer of that body at its registered or principal office in Barbados, or by sending it by registered mail addressed to the secretary or other officer of that body at that office.

(2) Where the notice or document is required or authorised to be served upon any person as the occupier of premises or as a person having an interest in premises, and the name of that person cannot be ascertained after reasonable enquiry, the notice or document is deemed to be duly served if

- (a) being addressed to that person either by name or by the description “the occupier”, as the case may be, of the premises described therein, it is delivered or sent in the manner prescribed by subsection (1); or

- (b) being addressed as aforesaid and marked in such manner that it is plainly identifiable as a communication of importance, it is delivered to some person on those premises or is affixed conspicuously to some object on those premises.
- (3) Where the person to be served gives an electronic mail address for service, any document may be served by means of electronic communication of its contents.
- (4) A person who receives a document that is served electronically who is unable to view or download the document shall promptly notify the sender and the sender shall take all reasonable steps to ensure that the document can be read by the person served.
- (5) Electronic confirmation of delivery, by means of an electronic read receipt or other electronic means of acknowledgment, shall serve as proof of service of all documents served electronically.
- (6) Any document served by means of electronic communication is deemed to have been served on the date and at the time of transmission.
- (7) Where a document is served by electronic means, the party serving the document shall, upon request of the party on whom it has been served, also deliver a hardcopy of the document to the party who has been served.

Registers

- 98.(1)** The Chief Town Planner shall compile and maintain registers of all
- (a) applications for planning permissions;
 - (b) decisions on applications referred to in paragraph (a) and any conditions attached to planning permissions;
 - (c) planning obligations entered into under section 36;
 - (d) notices of modification or revocation of planning permissions issued under section 37;

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- (e) applications for express consent to display advertisements under section 67;
 - (f) enforcement notices and stop notices served and other enforcement proceedings taken and injunctions obtained under Part VIII;
 - (g) claims for compensation under section 84;
 - (h) any appeal against a decision made or action taken by or on behalf of the Board under this Act and the Tribunal's decision on the appeal.
- (2) Where any application is publicised pursuant to section 29, or an environmental impact assessment is required with respect to that application pursuant to section 30, or the application is referred to the Minister for determination pursuant to section 33, this information shall be entered in the record with respect to that application in the register.
- (3) Every entry in a register shall be made promptly and in no case more than 5 working days after the date on which the application, decision or claim is made, the agreement is concluded, the notice is given, issued or served, or the injunction is granted, as the case may be.
- (4) The registers required to be maintained by subsection (1) shall include geographical indexes and both the register and the index may be kept in an electronic data storage and retrieval system whether by use of a computer or otherwise.
- (5) The Chief Town Planner shall make provisions for any person who wishes to do so to conduct a search of the register, examine and take a copy of any entry in the register, subject to payment of the prescribed fee.
- (6) For the avoidance of doubt, it is hereby declared that all forms, drawings and reports submitted in application for planning permission form part of the register of applications for planning permission, and that all such documents, including but not limited to every environmental impact statement submitted in support of an application for planning permission, form part of a public record that is subject to an exception to copyright protection pursuant to section 66 of the *Copyright Act*, Cap. 300.

Registered planning conditions and notices to be charges on land**99.(1)** Any condition

- (a) subject to which planning permission is granted by or on behalf of the Board under section 32;
- (b) subject to which planning permission is granted by the Minister under section 33; or
- (c) which is imposed by the Tribunal of the review of any decision appealed under Part XI;

shall, when registered in the register of decisions on applications kept by the Chief Town Planner under section 98, be a charge on the land in respect of which the planning permission was granted, the approval given or the appeal determined, as the case may be.

(2) Every

- (a) order under section 37;
- (b) notice under section 61, 69 or 71 which takes effect; or
- (c) order under section 53 or 59;

shall, when registered in the appropriate register kept by the Chief Town Planner under section 98, be a charge on the land in respect to which the order or notice relates, as the case may be.

Compliance certificates

100.(1) A person who is required, under the provisions of any other enactment or for any other purpose, to produce a certificate from the Chief Town Planner to the effect that the use of development of any premises complies with this Act and previous planning control, in this Act referred to as a “compliance certificate”, may apply to the Chief Town Planner for such a certificate.

- (2) An application for a compliance certificate shall be made in such form as the Chief Town Planner specifies, accompanied by proof of payment of the prescribed fee.
- (3) The Chief Town Planner shall determine an application made under this section within 14 days of the date of submission.

Compensation and costs payable

101. All sums payable by way of compensation under Part X and all other expense properly incurred in the administration of this Act, including any costs payable by the Board with respect to appeals under Part XI and proceedings in court, shall be paid out of monies voted for the purposes of this Act by Parliament.

Application of the Act

102. For the avoidance of doubt, it is hereby declared that this Act and any restrictions or powers thereby imposed or conferred in relation to land apply and may be exercised in relation to any land, notwithstanding that provision is made by any other Act, statutory instrument or other enactment regulating any development of the land.

Offences

103.(1) A person who willfully gives false information, relating to any matter in respect of which he is required to give information under this Act or obstructs any person in the exercise of any powers or the performance of any duties under this Act, is guilty of an offence and is liable on summary conviction to a fine of \$50 000; and, in the case of a continuing offence, a fine of \$2 000 for each day on which the contravention continues after conviction.

(2) Any representative of the Ministry or the Board, including any Board member, the Chief Town Planner or any other public officer, or any member of the Tribunal who directly or indirectly solicits or accepts any financial or other reward from any person as an inducement to perform any duty imposed on them by this Act, or to forbear from performing any such duty or exercising any power

vested in them by this Act, whereby the provisions of this Act or any other written law may be evaded or violated, is guilty of an offence and is liable on summary conviction to a fine of \$250 000 or to imprisonment for a term of 2 years or both.

(3) Any person who offers or provides any financial or other reward to any person to whom subsection (2) applies, for the purpose of inducing them to perform any duty imposed on them by this Act, or to forbear from performing any such duty or exercising any power vested in them by this Act, whereby the provisions of this Act or any other written law may be evaded or violated, is guilty of an offence and is liable on summary conviction to a fine of \$250 000 and imprisonment for a term of 2 years or both.

(4) Any member of the Board or the Tribunal who, having a conflict of interests with respect to any decision before the Board or an Appeal Panel, fails to disclose that conflict of interests and recuse themselves from the meeting of the Board, in accordance with section 6(12), or from sitting on an Appeal Panel, in accordance with section 89(3), as the case may be, is guilty of an offence and is liable on summary conviction to a fine of \$100 000.

(5) Any public officer who, having a conflict of interest with respect to any matter being dealt with by the Department, fails to disclose that conflict of interest and recuse themselves from dealing with the matter is guilty of an offence and is liable on summary conviction to a fine of \$100 000.

(6) Where an offence against this Act which has been committed by a body corporate, is proved to have been committed with the knowledge, consent or connivance of, or is attributable to any negligence on the part of any director, manager, corporate secretary or officer of the body corporate, or any person purporting to act as such, that person as well as the body corporate is deemed to have committed the offence and is liable to be proceeded against and punished accordingly.

(7) Proceedings in respect of an offence alleged to have been committed under this Act may be brought, with the approval of the Board, by the Chief Town Planner, provided that if it is considered that the gravity of the offence requires

that it be tried on indictment, proceedings shall only be brought by or with the consent of the Director of Public Prosecutions.

Regulations

- 104.(1)** The Minister may make regulations for
- (a) the procedures for public participation during the preparation of a physical development plan;
 - (b) the procedures to be followed and the forms to be used in connection with
 - (i) applications for planning permission;
 - (ii) the modification or revocation of planning permission;
 - (iii) applications for consent to display outdoor advertisements;
 - (iv) Enforcement and stop notices;
 - (v) acquisition of land for planning purposes; and
 - (vi) claims for compensation;
 - (c) the qualifications required of persons signing forms, plans and drawings on behalf of any applicant for a planning permission;
 - (d) the procedures for the filing and hearing of appeals under Part XI;
 - (e) the planning standards applicable to the development of land in Barbados;
 - (f) the form and contents of the registers to be maintained under section 98;
 - (g) the fees payable for the purposes of the Act; and
 - (h) carrying into effect the provision of this Act.
- (2) Regulations made under this Act may prescribe specific offences and provide that any person guilty of an offence is liable on summary conviction to

a fine of not more than \$100 000 and, in the case of a continuing offence a fine of \$5 000 for each day that the offence continues after the date of conviction, and imprisonment for not more than one year.

Amendments of Schedules

105.(1) The Minister may by order subject to negative resolution amend the *First, Second and Third Schedule* to this Act.

(2) The enactment specified in the first column of the *Fourth Schedule* is amended in the respects set out in the second column thereto.

Repeal

106.(1) The *Town and Country Planning Act*, Cap. 240, (hereinafter referred to as “the former Act”) is repealed.

(2) In so far as the context permits, all references in other laws of Barbados to the former Act or subordinate legislation made under that Act, shall be construed *mutatis mutandis* as references to this Act and subordinate legislation made under this Act.

Savings

107.(1) The Physical Development Plan for Barbados, adopted and amended under Part III of the former Act, and in force immediately before the coming into force of this Act, continues in force as if made under this Act, until amended in accordance with the provisions of Part III of this Act.

(2) The *Town and Country Planning (Fees) Regulations, 1970* (S.I. 1970 No. 181), the *Town and Country Planning Development Order, 1972* (S.I. 1972 No. 75) and the *Town and Country Planning Regulations, 1972* (S.I. 1972 No. 76), as amended from time to time, are deemed to be made under this Act and continue in force until repealed and replaced by statutory instruments made under this Act.

(3) The list of buildings of special architectural or historic interest compiled under section 29 of the former Act is deemed to have been duly adopted under section 53 of this Act until that list is amended or repealed by a Cultural Heritage Preservation Order made pursuant to section 53.

Transitional

108.(1) Every application made under the former Act and wholly or partially determined by the Chief Town Planner or the Minister, as the case may be, when this Act comes into force, is to be continued and dealt with in all respects as if this Act had not come into force.

(2) Every application made under the former Act that has not been wholly or partially determined by the Chief Town Planner or the Minister, as the case may be, when this Act comes into force is to be taken as an application made under this Act and this Act is to apply accordingly.

(3) Where a period of time specified in the former Act is current when this Act comes into force, and there is a corresponding provision in this Act, this Act has effect as if the corresponding provision had been in force when the period began to run.

(4) All grants of outline approval and planning permission, conditions imposed and proceedings taken under the former Act remain valid and the proceedings may be continued under that Act as if this Act had not come into force.

(5) Every appeal made under section 19 of the former Act that has been heard by a person appointed by the Minister, but not finally determined before this Act comes into force, is to be continued and dealt with as if this Act had not come into force.

(6) Every appeal made under section 19 of the former Act that had not been heard by a person appointed by the Minister before this Act comes into force is to be taken as an appeal made under this Act and this Act is to apply accordingly.

Act binds the Crown

109. This Act binds the Crown.

Commencement

110. This Act comes into force on a date to be fixed by Proclamation.

FIRST SCHEDULE*(Section 7(2), 34(1)(b), 105(1))***CLASSES OF APPLICATIONS TO BE DETERMINED BY THE BOARD**

- 1.** All applications, except applications to be determined by the Minister under section 33, for which an environmental impact assessment is required, whether the application is
 - (a)* an application for approval in principle for which an initial environmental evaluation is required under section 25(3);
 - (b)* an application for which an environmental impact assessment is mandatory under section 30(2); or
 - (c)* any other application for which an environmental impact assessment is required under section 30(1).
- 2.** All applications, except applications to be determined by the Minister under section 33, for which publicity is required under section 29(1), in relation to which an objection has been made pursuant to section 29(3).
- 3.** All applications for building or engineering operations for or involving the demolition or alteration of a listed building or other monument or the disturbance of a listed site.
- 4.** All applications for building and engineering operations for construction of a shopping mall or retail complex.
- 5.** All applications for building operations of the following classes
 - (a)* construction of a building for commercial (including office) or industrial use of 1000 square metres or more in gross floor area;
 - (b)* construction of 20 or more dwelling houses;

- (c) construction of a hotel or other building or building complex for the accommodation of tourists comprising 10 beds or more;
 - (d) construction of a restaurant of 100 square metres or more gross floor area of the part of the restaurant used for seating and servicing customers.
- 6.** All applications for a material change in the use of
 - (a) agricultural land of 1 hectare or more in area; or
 - (b) dwelling houses or building lots in residential subdivisions.
- 7.** Any application for the subdivision of a parcel of land of 2 hectares or more in area or to create 25 building lots or more.
- 8.** Any application submitted or prepared by or on behalf of a member of staff of the Department.

SECOND SCHEDULE*(Section 14(2)(c), 105(1))***MATTERS FOR WHICH PROVISION MAY BE MADE****IN PHYSICAL DEVELOPMENT PLANS****PART I****ROADS**

- 1.** Reservation of land for roads and establishment of public right of way including public right of way to beaches.
- 2.** Closing or diversion of existing roads and public and private right of way.
- 3.** Construction of new roads and alteration of existing roads.
- 4.** The line, width, level, construction, access to and egress from and the general dimensions and character of roads, whether new or existing.
- 5.** Providing for and generally regulating the construction or execution of works incidental to the making or improvement of any road, including the erection of bridges, culverts, gullies, fencing, barriers, shelters, the provision of artificial lighting, and seats and the planting or protecting of grass, trees and shrubs on or adjoining such road.

PART II

BUILDINGS AND OTHER STRUCTURES

- 1.** Regulating and controlling, either generally or in particular areas, all or any of the following matters:
 - (a)* the size and height of buildings and fences;
 - (b)* building lines, coverage and the space about buildings;
 - (c)* the objects which may be affixed to buildings;
 - (d)* the purposes for and the manner in which buildings may be used or occupied including in the case of dwelling houses, the letting thereof in separate tenements;
 - (e)* the prohibition of building or other operations on any land, or regulating such operations.
- 2.** Regulating and controlling the design, colour and materials of buildings and fences.
- 3.** Allocating any particular land, or all land in any particular area, for buildings of a specified class or classes or prohibiting or restricting either permanently or temporarily, the making of any building or any particular class or classes of buildings on any specified land.
- 4.** Limiting the number of buildings or the number of buildings of a specified class which may be constructed, erected or made, on, in or under any area.

PART III

COMPREHENSIVE DEVELOPMENT PLANNING

1. Providing for comprehensive development planning at the intermediate and local levels.
2. Comprehensive development plans may be identified for
 - (a) local area planning, action area planning, community planning, or neighborhood planning;
 - (b) subject area planning or policy area planning; or
 - (c) heritage area planning, conservation area planning or protected areas planning.
3. Maintaining the relationship between all levels of physical development planning by ensuring that comprehensive development plans adhere to the strategies set out in the national physical development plan.
4. Making provision as appropriate for
 - (a) the control of land by zoning or designating specific land uses;
 - (b) regulating the layout of housing areas including density, spacing, grouping and orientation of houses in relation to roads, open spaces and other buildings;
 - (c) determining the provision and siting of community facilities including shops, schools, churches, meeting halls, play centres and recreation grounds in relation to the number and siting of houses;
 - (d) managing connectivity and access within and between designated planning areas.

PART IV

AMENITIES

1. Allocation of lands as open spaces whether public or private.
2. Allocation of land for burial grounds and crematoria.
3. Allocation of lands
 - (a) for communal parks;
 - (b) for wildlife sanctuaries;
 - (c) for the protection of marine life;
 - (d) for national parks and environmental protection areas.
4. Preservation of buildings, caves, sites and objects of artistic, architectural, archaeological, historical, or cultural interest.
5. Preservation or protection of forests, woods, trees, shrubs, plants and flowers.
6. Protection of the coastal zone, designation of marine parks, special resource and special use areas.
7. Prohibiting, restricting or controlling, either generally or in particular places, the exhibition, whether on the ground, or any building or any temporary erection, whether on land or in water, or in the air, of all or any particular forms of advertisement or other public notices.
8. Preventing, remedying or removing injury to amenities arising from the ruinous or neglected condition of any building or fence, or by the objectionable or neglected condition of any land attached to a building or fence or abutting on a road or situate in a residential area.

9. Prohibiting, regulating and controlling the deposit or disposal of waste materials and refuse, the disposal of sewage and the pollution of ponds, salt ponds, gullies, beaches, the foreshore or territorial waters.

PART V

PUBLIC SERVICES

Facilitating the establishment, extension or improvement of works by statutory or other undertakers in relation to power, lighting, water supply, sewerage, drainage, sewage disposal, refuse disposal or other public services.

PART VI

TRANSPORT AND COMMUNICATIONS

1. Facilitating the establishment, extension or improvement of systems of transport whether by land, water or air.
2. Allocating sites for use in relation to transport and mobility, and the reservation of land for that purpose.
3. Providing for the establishment, extension or improvement of telegraphic, telephonic, wireless or radar communication, the allocating of sites for use in relation to such communication, and the reservation of land for that purpose.

PART VII

MISCELLANEOUS

1. Providing for and regulating the making of agreements for the purpose of a development plan by the Minister with owners and other persons, and by such persons with one another.
2. Sub-division of land and in particular, but without restricting the generality of the foregoing, providing for
 - (a) regulating the type of development to be carried out and the size and form of plots;
 - (b) requiring the allocation of land for any of the public services referred to in Part V or for any other purposes referred to in this *Schedule* for which land may be allocated;
 - (c) prescribing the character and type of public services or other works which shall be undertaken and completed by any applicant for permission to sub-divide as a condition of the grant of such permission;
 - (d) co-ordinating the sub-division of contiguous properties in order to give effect to any scheme of development appertaining to such properties.
3. Making any provisions necessary for
 - (a) adjusting and altering the boundaries and areas of any towns;
 - (b) effecting such exchanges of land or cancellation of existing sub-division plans as may be necessary or convenient for the purposes aforesaid.

THIRD SCHEDULE*(Section 30(2), 105(1))***MATTERS FOR WHICH ENVIRONMENTAL IMPACT
ASSESSMENT IS REQUIRED**

- 1.** Major transportation infrastructure, including highways, airports, seaports, wharves, marinas, piers or jetties.
- 2.** A fossil-fuelled electricity generating plant or alternative energy generation plant having a capacity greater than one megawatt, including but not limited to hydro-electric plants, geo-thermal energy plants, wind-power plants, solar-voltaic arrays, and waste-to-energy plants.
- 3.** A crude oil storage or refinery facility or a petroleum and natural gas storage and pipeline installation.
- 4.** A waste incinerator, sanitary landfill operation, solid waste disposal site, sludge disposal site, toxic waste disposal site or other waste management facility, other than a facility for sorting and processing of source-separated dry recyclable wastes.
- 5.** A sewage or wastewater treatment plant, a desalination plant or water purification plant.
- 6.** An industrial plant for the manufacture, storage or use of cement, chemical products, paints or hazardous materials.
- 7.** An industrial estate development project.
- 8.** Mining operations, including quarries and sand-mines (including the excavation, removal or deposit of beach materials and similar materials on the foreshore or seabed).

- 9.** An operation involving land reclamation, dredging and filling of ponds.
- 10.** A hotel or resort complex with in excess of 50 rooms or a golf course.
- 11.** Crematoria and funeral parlours.
- 12.** Development within Heritage Conservation Areas or Protected Areas.

FOURTH SCHEDULE

AMENDMENTS

(Section 105(2))

Column 1	Column 2
Enactments	Amendments
<p>1. <i>Administrative Justice Act, CAP. 109B</i></p>	<p>1. In the second column of the <i>Second Schedule</i>, delete:</p> <p style="padding-left: 40px;">"A decision to approve a development plan under section 9 of the <i>Town and Country Planning Act, Cap. 240</i>;</p> <p style="padding-left: 40px;">A decision given upon a review under section 19 of that Act."</p> <p style="padding-left: 40px;">and substitute the following:"</p> <p style="padding-left: 40px;">"A decision to approve a physical development plan under section 15 of the <i>Planning and Development Act, 2019 (Act 2019-)</i>."</p>
<p>2. <i>Coastal Zone Management Act, CAP. 394</i></p>	<p>1. In section 4 subsection (1) delete paragraph (b).</p> <p>2. Delete section 13 and substitute the following:</p> <p style="padding-left: 40px;">"13. (1) An appeal lies to the Appeals Tribunal provided for by the <i>Planning and Development Act, 2019 (Act 2019-)</i>, in respect of any question raised under this section.</p> <p style="padding-left: 40px;">(2) Any person who is aggrieved by a management plan and who desires to question the validity of that plan or any provision contained in the plan may appeal to the Tribunal on the grounds that</p> <p style="padding-left: 80px;">(a) it is not within the powers of this Act; or</p>

Fourth Schedule - (Cont'd)

Column 1	Column 2
Enactments	Amendments
2. <i>Coastal Zone Management Act, CAP. 394 (Concl'd)</i>	<p>(b) any requirement of this Act or of any regulations made under the Act have not been complied with in relation to the approval or preparation of the plan or management area.</p> <p>(3) An appeal to the Tribunal shall be made within 6 weeks from the date on which the notice is published in the <i>Official Gazette</i> under section 7(2) and in a daily newspaper circulated in Barbados, whichever is later.</p> <p>(4) On hearing an appeal under this section, the Tribunal may review, vary or rescind any management plan.”.</p>
3. <i>Tree (Preservation) Act, CAP. 397</i>	<p>1. In subsection 2, add the following:</p> <p>" "Tribunal" means the Appeal Tribunal established by section 86 of the <i>Planning and Development Act, 2019</i> (Act 2019-) ."</p> <p>2. Delete section 3 and substitute the following:</p> <p>"3. (1) This Act applies to</p> <p>(a) any tree the circumference of which is one metre or more at a point half a metre or more from the ground;</p> <p>(b) any palm tree of 10 metres or more in height from the ground; and</p>

Fourth Schedule - (Concl'd)

Column 1	Column 2
Enactments	Amendments
3. <i>Tree (Preservation) Act, CAP. 397 (Concl'd)</i>	<p>(c) any mangrove tree 2 metres or more in height measured from the ground or the surface level of the water in which it is growing.</p> <p>(2) This Act does not apply to the cutting uprooting, topping or lopping of trees by a statutory undertaker or in exercise of any power conferred upon them by any Act, statutory instrument or other written law".</p> <p>3. In section 4(1), after the word "kill" insert the words ", cut down, uproot, top or lop".</p> <p>4. After subsection 4(4), insert the following subsection:</p> <p style="padding-left: 40px;">"(5) Unless the application is determined within the period specified in subsection (4), the application is deemed to have been refused by the Chief Town Planner and the applicant may appeal against that decision pursuant to section 10.</p> <p>5. In subsection 10</p> <p>(a) delete the word "Minister" wherever it appears and substitute the word "Tribunal";</p> <p>(b) In subsections (1) and (2), delete the words "and a decision of the Minister is final."</p>