

PHISICAL PLANNING AND DEVELOPMENT CONTROL

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Physical Planning and Development Control Act, 1990.



THE GAMBIA

No. 1 of 1991.

Assented to by The President,

this Twenty-third day of April,

LS

**AN ACT to make Provision for the systematic
ment control of the Land resources of The Gambia**

[10th May, 1991.

ENACTED by the Parliament of The Gambia.

PART I—PRELIMINARY

**1. THIS ACT may be cited as the
ment Control Act, 1990.**

PHYSICAL PLANNING AND DEVELOPMENT CONTROL ACT

Interpretation

1. In this act, unless the context otherwise requires,

"approved plan" means a plan authorised by the Planning Board or Planning Authority and approved by the Minister under subsection(3) of section 15 of this act;

"Board" means the Planning Board established after section 3 of this Act.

"Development includes building construction, engineering works or mining operations carried out on, under or over any land, making changes in Land use,

subdividing or unifying any Land but does not include maintenance operations

internal operation of buildings, construction of temporary structures and such other works as the Minister may by Regulation prescribe.

"Draft Plan " means a Plan made under the authority of the Board or Planning authority for a designated planning Area or part thereof for the purpose of providing guidelines for effective utilization of land and for Development control.

Physical Planning and Development Control Act, 1990.

"Land Administration Board" means the Board created for land administration purposes under the State Lands Act;

"Minister" means the Minister responsible for the administration of this Act;

"Planning Area" means an area designated by the Minister under section 9 of this Act.

"Planning Authority" means the authority established by the Minister under section 5 of this Act; and

"Public Purpose" and planning purpose have the same meaning as in the Land Acquisition and Compensation Act.

PART II

**ESTABLISHMENT OF PLANNING BOARDS AND
PLANNING AUTHORITIES**

**Estab-
lish
ment of
Planning
Board.**

3. There shall be established a Planning Board which shall consist of such persons as the Minister may, by order published in the Gazette, prescribe.

**Functions
of the
Board.
Schedule.**

4. The Board shall authorise and direct the preparation of the draft plans specified in the Schedule to this Act and shall advise the Minister -

- a) on the formulation of general physical development policy for the country as a whole or for any specific part thereof as may be necessary;
- b) on any matter relating to the administration of this Act, including the making of appropriate regulations;

- c) On any matter referred to it by him, and shall do such other things as the Board may consider necessary for carrying out its functions under this Act.

Estab-
lish
ment of
planning
author-
ities.

5. There shall be established a Planning Authority for Banjul and Kombo Saint Mary and each Division which shall comprise such members as the Minister may, by Order published in the Gazette, prescribe.

Func-
tions of
the Plan-
ning au-
thority.

6. The Planning Authority shall -

- a) authorise and direct the preparation of the draft local plans specified in the Schedule to this Act;
- b) advise the Land Administration Board on applications for land leases in its area and ensure that such applications are in conformity with the draft local plan;
- c) consider all applications for permits for the development and use of any land within its area; and
- d) advise the Board on matters under its jurisdiction and on such other matters as may be referred to it by the Board.

Proceedings of the Board and Planning Authorities. 7. The Minister may, by regulations, prescribe the procedures to be followed by the Board and Planning Authorities in the performance of their functions under this Act.

PART III

PREPARATION OF DRAFT PLANS

- Draft plans and their purpose.
8. (1) Draft Plans shall provide guidelines for the spatial development and effective use of land to ensure a well balanced environment and good living conditions.
- (2) There shall be the following types of draft plans -
- a) national plans;
 - b) divisional plans;
 - c) development plans; and
 - d) local plans.
- (3) The scales of draft plans are specified in the Schedule to this Act.
- Designation of planning areas.
9. (1) The Minister may, from time to time, and upon the advice of the Board or Authority, as the case may be, by notice published in the Gazette, designate any area as a planning area.
- (2) The Board or a Planning Authority may authorise the making of a draft plan in respect of any planning area within its jurisdiction or any part thereof.
- The National plan.
10. (1) The Board shall prepare a national plan for The Gambia.
- (2) The national plan shall complement the national socio-economic plans of the country and shall provide the guidelines and policies at the national level for the development of urban and rural settlements, traffic and transportation, resource utilization and economic activities and for the preservation of national and environmental reserves.

Divisional
plans

11. (1) The Board shall within the framework of the national plans prepare divisional plans for each Division of The Gambia.

(2) The divisional plans shall indicate policies, detailed and specific guidelines at the Divisional level for development of urban areas and shall reflect the problems, issues and prospects of such Division and the people living therein.

The Deve-
lopment
plan

12. (1) The Board shall within the framework of the national plan and divisional plan, prepare development plans for any area which shall provide broad policies and guidelines for the development of the urban area or major settlements covered by that plan, for a period of fifteen to twenty years.

(2) The development plan shall generally indicate the different land-use zones, traffic and transportation routes, community facilities, utilities and historic monuments and such other matters as the Minister may, by regulation, prescribe.

publication and
Exhibition

13. (1) The Board shall, after approving the draft development plan direct that it shall be exhibited for inspection by the general public at such suitable place or places as the Board may think fit.

(2) The draft development plan exhibited for inspection under subsection (1) of this section shall be on display for a period of thirty days.

(3) The Board shall cause a notice of the exhibition to be published in any local newspaper and the Gazette and such notice shall state that the plan may be inspected within a period of thirty days and shall specify the places and hours within which it may be inspected.

(4) The Board may supply a copy of the draft plan or any extract thereof requested by any person, on the payment of such fees as the Minister may, by regulations, prescribe.

Objections to development plan.

14. (1) Any person who has an objection against the draft development plan exhibited under section 13 of this Act, may within seven days after the publication of the notice of exhibition in the Gazette express his objection in writing to the Board.

(2) The Board shall within thirty days of the end of the period of exhibition, consider all objections and may accept or reject any objection in whole or in part.

(3) Where any objection is accepted in whole or in part under subsection (2) of this section, the Board shall carry out such alterations or amendments to the draft plan as it may deem fit.

Minister
to consider
and approve
plan.

15. (1) The draft development plan with or without amendments shall be submitted to the Minister for approval after a period of fourteen days from the period referred to under subsection (2) and shall be accompanied by a Schedule which shall state -

- a) objections raised under section 14 of this Act;
- b) objections accepted or rejected by the board
- c) Alterations or amendments made by the Board as a result of any such objection.

(2) The Minister may after considering the draft plan accept or refer it to the Board for further consideration, amendment or resubmission.

(3) The draft plan shall come into effect from the date of approval by the Minister under this section and shall be referred to as the development plan and the fact of such approval shall be published in any local newspapers and the

- (4) A copy of the approved plan shall be certified by the Minister and the Chairman of the and deposited in the office of the Board and shall be ... available for inspection by the general public.

(5) The Board shall supply a copy of the approved plan or any extract to any person who makes a request for such copy on the payment of such fees as the Minister may, by regulation, prescribe.

Use of
develop-
ment
plan.

16. The development plan shall be used -

- a) as the basis for preparing comprehensive local plans; and
- b) for regulating the development of all land not covered by a local plan.

Amend-
ment of
develop-
ment
plans.

17. (1) The Board shall, from time to time and at least once in every five years, commencing from the date on which the development plan becomes effective, review and make such amendments as may be required by changes in the development plans of Government.

(2) The procedures for amending a development plan shall be the same as those for the preparation and approval of such plans.

Prepara-
tion of
local
plans.

18. (1) A draft local plan may be prepared in respect of any area for which there exists a development plan.

(2) A local plan prepared under subsection (1) of this section shall be based on and shall reflect the proposals in the development plan for the area in respect of which the local plan has been prepared.

(3) After any area has been designated as a planning area under section 9 of this Act, if in the opinion of the Board circumstances so require, local plans may be prepared for any area which is not covered by a development plan.

Contents
of draft
local
plans.

19. (1) The Planning Authority shall prepare draft local plans for any area within its Division which shall consist of a map and a written statement.

(2) A draft local plan shall be made within the framework of the development plan and shall generally provide -

- a) detailed proposals for development and use of land in the area covered by such plan; and
- b) contain such other matters as the Minister may, by regulation prescribe.

Procedure
for
approval
of draft
local plan.

20. (1) The procedure for the approval of draft local plans shall be the same as for the approval of draft development plans under this Act.

(2) Where the circumstances so require, the Minister may exempt a draft local plan from the requirements for public exhibition provided under subsection (1) of section. 13 of this Act.

Approval
of draft
local
plan.

21. (1) A draft local plan shall come into effect upon approval by the Minister in accordance with section 20 of this Act and shall be known as the local plan.

- (2) A local plan shall be used -
- a) as the basis for preparing comprehensive infrastructure plans;
 - b) for regulating the development of all land which it covers; and
 - c) for the enforcement of development control in the area covered by the plan.

PART I .

DEVELOPMENT CONTROL

Existing
uses to
be recog-
nised.

22. (1) All lawfully existing uses at the time of approval of a draft local plan for any area shall be valid and the provisions of this Act shall not apply to such use.

(2) Notwithstanding subsection (1) where public interest so requires or in the exercise of any power conferred by any law it is required that a lawfully existing use shall be changed, the Minister may, subject to subsection (3) of this section, direct that such existing use be discontinued

(3) Where the Minister exercises the power conferred upon him by subsection (2) of this section he may, if in his opinion unreasonable hardship will be caused to the owner or occupier of such land, direct that compensation be paid to such owner or occupier in accordance with the provisions of the Land Acquisition and Compensation Act.

(4) No person shall enlarge or alter an existing use without first applying for and obtaining a development permit in accordance with this Act.

Condition
for
develop-
ment.

23. (1) Any new development or change in development in a designated area for which there is a development plan or a local plan, shall be in accordance with the provisions of the plan for the area.

(2) All new developments or changes in development for any designated planning area for which a development or local plan is in the process of being prepared may, at the discretion of the planning authority, be deferred until the plans are approved.

(3) Notwithstanding the generality of subsection (2) of this section, in special cases, the Minister may declare the whole planning area or parts thereof as areas where any new or changes in development shall be prohibited pending the approval of local plans.

(4) In areas of settlement not covered by a plan new developments or changes in development may be permitted at the discretion of the Planning Authority if, in the opinion of the Planning Authority, the proposed development or change is compatible with surrounding uses.

(5) No development shall be permitted in any open land or preservation area except to the extent specified by the Minister by regulations made under this Act.

(6) No development, alteration or demolition shall be permitted in the areas containing monuments of ancient, historical, religious or other significance, relics and other objects of architectural, archaeological historical or scientific interests, which have been designated for protection and preservation by the National Council for Arts and Culture.

Development
permit.

24. No person shall carry out any development on any land subject to the provisions of this Act, unless that person, has been issued with a development permit in respect of such land by the Planning Authority of the area in which such land is situate.

Planning
Authority
to consi-
der apply-
cation
for a
permit

25. The Planning Authority shall receive and consider for approval applications for development permits for any land within its area of juris-

**Procedures
for applying
for deve-
lopment
permit.**

26. An application for a development permit shall be in writing addressed to the Planning Authority in the appropriate form and on payment of such fees as the Minister shall prescribe.

**Minister to
make Deve-
lopment
control
Regu-
lations.**

27. The Minister may make regulations prescribing the procedures to be followed, and specifications for development to be ensured by the Planning Authorities in considering applications.

**Decision
of the
Planning
Authority**

28. The Planning Authority may after considering any application for a development permit -

- a) grant or refuse the granting of the development permit;
- b) grant a development permit subject to amendments to such application;
- c) grant a development permit subject to such conditions as it may think fit; and

shall notify the applicant in writing of its decision and the reasons therefore within thirty days of such decision being made.

29. (1) Any applicant who is aggrieved by the decision of the Planning Authority may, within fourteen days from the date of such decision, appeal to the Minister against the decision.

Appeal
against
Planning
Authority's
Decision

(2) The Minister shall within thirty days of the receipt of the appeal give his decision and inform the appellant accordingly.

(3) The decision of the Minister under subsection (2) shall be final.

Renewal and
Revocation
of Develop-
ment Permit.

30. (1) The execution of any development permit granted under section 28 of this Act shall be carried out in accordance with this Act, the Development Control Regulations made thereunder and the terms and conditions set out in the Development Permit.

(2) A Development Permit issued under section 28 of this Act, shall, unless renewed in accordance with the provisions of this section, be valid for a period of two years commencing from the date of issue.

(3) A Development Permit which has expired, may be renewed upon application to the Planning Authority in the appropriate form and payment of such fees as the Minister may, by regulation, prescribe.

Enforcement
Notice for
development
control.

31. (1) Subject to section 22 the Planning Authority may serve a notice, in this section referred to as the Enforcement Notice on :

the owner, or occupier of any land situated within an area covered by an approved plan requiring such owner or occupier to comply with the provisions of the approved plan in so far as it relates to the development of his land;

(2) An Enforcement Notice shall specify;

- a) the provision of the Approved Plan, or Development Permit requiring compliance;
- b) the steps required to be taken to correct or rectify the violations.

(3) An enforcement notice shall specify the date on which it shall become effective and the period within which such notice shall be complied with.

Stop
notice

32. The Planning Authority may serve a notice, in this section referred to as a stop notice, on any owner or occupier of any land situated within an area covered by a plan where such owner or occupier is carrying or has carried out developments violating conditions of the plan or development permit, directing him to cease forthwith such developments.

Revocation
of develop-
ment per-
mit.

33. The Planning Authority may serve a notice of revocation of the development permit on any owner or occupier of any land within an area covered by a plan where such owner or occupier has violated the conditions laid down in the development permit.

Services
of Notices.

34. Any notice required to be served under this part shall be deemed to be properly served if it is addressed to the owner or occupier of any land and delivered to his last known address or conspicuously posted up or displayed on the land to which the Enforcement Notice relates.

Appeal to
the Minister.

35. (1) Any person aggrieved by a notice served under this part may appeal to the Minister within fifteen days of the date of the notice and shall where such person has been served with an enforcement notice, stop all developments prior to the making of such appeal notwithstanding subsection 3 of section 31.

(2) The appeal shall be in writing and shall state clearly the grounds of the appeal and the facts on which the appellant relies.

(3) The Minister shall make his decision within thirty days of the receipt of such appeal.

(4) The decision of the Minister under subsection (3) shall be final.

PART V.

MISCELLANEOUS PROVISIONS

Acquisition
of Land
for pub-
lic pur-
poses.

36. Where any land is required for public or planning purposes, the Planning Authority may make a recommendation to the Minister to acquire such land under the provisions of the Land Acquisition and Compensation Act.

Adjust-
ments of
existing
bound-
aries.

37. (1) The Planning Authority may, in consultation with the owners or occupiers of any land held under separate ownership alter or combine the existing boundaries of such land and reconstitute new boundaries for any replanning exercise in furtherance of any plan.

(2) The Minister may, by regulations, prescribe the procedures for the adjustment of existing boundaries mentioned in subsection (1) of this section.

Offences
and
penalties

38. Any person who contravenes or fails to comply with

- a) the provisions of this Act; or
- b) any regulations made under this Act; or
- c) a development permit or to obtain such permit in an area in respect of which there exists a plan;

d) a plan;

commits an offence and shall in addition to having such development removed be liable to a fine not exceeding two thousand dollars or to a term of imprisonment not exceeding one year or to both such fine and imprisonment.

Regulations.

39. The Minister may make regulations and rules for the better carrying out of the provisions of this Act.

Repeal
and
Savings
No.7 of
1984
Cap. 17

40. (1) The Physical Planning Act, 1984 and the Building Act are hereby repealed.

(2) Notwithstanding subsection (1)
of this Section -

- a) any regulations, rules, orders or by-laws made under the Physical Planning Act 1984 and the Building Act 1964 shall, until revoked or varied continue to be in force as though they were made under this Act;
- b) any notice served or other action taken under the Building Act shall be deemed to have been served or taken under this Act and may be confirmed and enforced as if that Act had not been repealed.

-
- (c) any development approved under the Physical Planning Act, 1984 or the Building Act shall, until such approval is rescinded, be deemed to have been approved under this Act.

Date of
Commencement

41. The Minister shall, by order published in the Gazette, appoint a date for the coming into force of this Act.

SCHEDULE

Draft Plans

1. Stage 1. National Plans, Scale 1:250,000
1:100,000. Authority Planning Board.
2. Stage 2. Divisional Plans, Scale 1:50,000
1:25,000. Authority - Planning Board.
3. Stage 3. Development Plans, Scale
1:25,000 - 1:5,000. Authority - Planning
Board.
4. Stage 4. Local Plans, Scale 1:2,500
1:1,250. Authority - Planning Authority.

PASSED in the House of Representatives this Twenty-six day of December,
in the year of Our Lord One Thousand Nine Hundred and Ninety.

R. H. W. SOWE,
Clerk of the House of Representatives.

THIS PRINTED IMPRESSION has been carefully compared by me with
the Bill which has passed the House of Representatives, and found by me
to be a true and correct copy of the said Bill

R. H. W. SOWE,
Clerk of the House of Representatives.