



GRENADA

ACT NO. 25 OF 2002



DANIEL CHARLES WILLIAMS
Governor-General.

assent,
13
September, 2002.

An Act to make fresh provision for the control of physical development, to continue the Land Development Authority, to require the preparation of physical plans for Grenada, to protect the natural and cultural heritage, and for related matters.

[Gazetted 13th September, 2002].

ENACTED by the Parliament of Grenada -

This Act may be cited as the

Short title.

PHYSICAL PLANNING AND DEVELOPMENT
CONTROL ACT 2002.

In this Act, unless the context otherwise requires - Interpretation.

"Authority" means the body renamed as the Planning and Development Authority by section 5(1);

"building" includes any structure of whatever material and in whatever manner constructed or any part of a building and, where the context so permits, includes the land on, in or under which the building is situated;

"building operations" includes demolition work, rebuilding operations, structural alterations and other additions to a building and any road, drainage works preliminary or incidental to the erection of buildings;

"Committee" means the Natural and Cultural Heritage Advisory Committee established pursuant to section 46;

"designation order" means an order issued by the Authority under section 46;

"development", in relation to land, means the carrying out of building, engineering, mining or other operations in, on, over or under land, the making of any material change in the use of land or the erection of buildings or the subdivision of land.

"enforcement notice" means a notice issued by the Authority under section 34;

"engineering operations" include the laying out, construction and maintenance of roads, bridges, culverts, bridges and retention structures, the preparation of land for carrying out any development, the clearing and grubbing of land, earthworks, dredging, landfilling and reclamation;

"Environmental Impact Assessment" means an examination, analysis and assessment of planned activities with a view to ensuring environmentally sound and sustainable development;

"Head" means the Head of the Physical Planning Unit;

"land" means incorporeal as well as corporeal hereditaments of every tenure or description, and any interest therein, and also an undivided share in land, and includes land covered with water and land underlying the sea surrounding the coast within the limits of the territorial waters of Grenada;

"listed" in relation to a building, monument or site means included on a list compiled by the Authority under section 42; and "unlisted" has the correlative meaning;

"local authority" means any local government body which is established by or under the Constitution or laws of Grenada;

"mining operations" means the carrying out in relation to any mineral or substance (including oil and geothermal energy) in or under land of any activity with a view to searching for, removing by underground or surface working, carrying away, treating or converting that mineral, and includes the removal of beach sand, quarrying, drilling and boring operations;

"Minister" means the Minister for the time being charged with the responsibility for planning and development;

"occupier", in relation to any building or land, includes any caretaker, contractor or other person authorized to undertake or engaged in undertaking any works in relation to the building or land;

"owner", in relation to any building or land, means a person, other than a mortgagee not in possession who is for the time being entitled to dispose of the right of ownership of the building or land whether in possession or reversion, and includes a person holding or entitled to the rents and profits of a building or land under lease or agreement the unexpired term of which exceeds 10 years;

"physical plan" means a plan showing the manner in which land may be used (whether by the carrying out of development or otherwise) and the stages by which such development may be carried out;

"Physical Planning Unit" means a unit, whether or not called by that name, responsible for the implementation of this Act and located in the Ministry of the Minister;

"public agency" means a ministry or department of Government, a statutory body, or a governmental organization which has interests, and expertise and information relevant to the purposes of this Act;

"road" means the entire highway, road, street, footpath, passage or other way, whether public or private and whether a thoroughfare or not, and includes the carriageways, curbs, sidewalks, verges and other reservations;

"site", in relation to a building, includes the area of any courtyard, outbuilding, yard or garden, whether enclosed or not, occupied or intended to be occupied therewith;

"statutory undertaker" means any authority, company or person empowered by any Act to execute or construct authorized works or to carry into effect the purposes of that Act;

"stop notice" means a notice issued by the Authority under section 36;

"subdivision", in relation to land, means the division of any piece, parcel or lot of land into two or more pieces, parcels or lots, by way of vesting order, partition order, conveyance, transfer or any other legal instrument, for the purposes of succession, sale, gift, lease, mortgage or any other purpose, whether or not the division involves building, engineering, mining or other operations on, over or under or a material change in the use of any of the pieces, parcels or lots of land and whether or not 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 divided;

"Tribunal" means the Physical Planning Appeal Tribunal established under section 28.

Objects of
the Act.

3. The objects of this Act are to -

- (a) ensure that appropriate and sustainable use is made of all publicly-owned and privately-owned land in Grenada in the public interest;
- (b) maintain and improve the quality of the physical environment in Grenada, including its amenity;
- (c) provide for the orderly subdivision of land and the provision of infrastructure and services in relation thereto;
- (d) maintain and improve the standard of building construction so as to secure human health and safety;
- (e) protect and conserve the natural and cultural heritage of Grenada.

(2) This Act should receive such purposive and liberal construction and interpretation as will best ensure the attainment of its objects.

PART II

ADMINISTRATION

4.—(1) The Minister must secure consistency and continuity in the administration of this Act in accordance with the objects set out in section 3.

(2) The Minister may give to the Authority directions of a general character as to the policy to be followed by the Authority in the performance of its functions under this Act and the Authority must give effect to those directions.

(3) A direction given by the Minister to the Authority pursuant to subsection (2) must be made in writing and published in the *Gazette*.

5.—(1) The statutory body established by section 3 of the Land Development Control Act (Cap. 160) as the Development Control Authority is preserved and continues in existence as a body corporate for the purposes of this Act, but is to be known after this Act comes into force as the Planning and Development Authority and is to be comprised in accordance with section 6.

(2) Subject to this Act, section 49 of the Interpretation Act (Cap. 153) applies to the Authority.

6.—(1) The Authority consists of -

- (a) a Chairperson (who may be a public officer) appointed by the Minister;
- (b) an executive secretary (who may be a public officer) appointed by the Minister;
- (c) 3 other members appointed by the Minister from the private sector, with reference to the need for representation from the areas of business, finance, law, natural science, land surveying and architecture or engineering;

Continuation of
the Authority.

Composition of
the Authority.

Powers and
duties of the
Minister.

(d) the following public officers as *ex officio* members -

- (i) the head of the Physical Planning Unit;
- (ii) the Environmental Protection Officer;
- (iii) the Director of Housing;

(e) 2 senior public officers dealing with the following matters and nominated by the respective Ministers -

- (i) agriculture;
- (ii) public works,

as *ex officio* members;

(f) the manager of the National Water and Sewerage Authority as an *ex officio* member.

(2) The Chairperson and executive secretary and the 3 members appointed under subsection (1)(c) are appointed for 3 years in the first instance but may be re-appointed.

(3) The Authority may co-opt any person to help in dealing with any matter if it is satisfied that the person's qualifications or experience are likely to help the Authority and any person so co-opted is entitled to take part in the Authority's proceedings regarding that matter, but may not vote and must take no part in any other proceedings of the Authority.

(4) Without limiting subsection (3), when the Authority is considering a matter affecting the development of land in Carriacou or Petite Martinique, the Authority must co-opt one or more persons representative of Carriacou and Petite Martinique to take part in its proceedings regarding that matter.

(5) The appointment of any member of the Authority and the termination of office of any person as such member whether by death, resignation, removal, lapse of time or otherwise, must be notified in the *Gazette*.

(6) The Minister may at any time revoke the appointment of the Chairperson, the executive secretary, or a member of the Authority appointed under subsection (1)(c) if he or she thinks it expedient to do so on reasonable grounds.

(7) Members of the Authority appointed under subsection (1)(c) may be paid such remuneration and allowances, if any, as the Minister determines.

7.—(1) The Authority must meet at least once per month at times, at places and on days necessary or expedient for the transaction of its business and meetings must be held at times and places and on days the Authority determines.

Meetings of the
Authority.

(2) A quorum for a meeting of the Authority is any voting members, but if a member is disqualified from taking part in the deliberation or decision of the Authority in respect of any matter, that member must be disregarded for the purpose of constituting a quorum for deliberating on or deciding that matter.

(3) The Chairperson presides at meetings of the Authority at which he or she is present, but in the absence of the Chairperson a meeting must be chaired by a member elected by the majority of the voting members present.

(4) In case of an equality of votes on a question at a meeting the person presiding at that meeting has a second or casting vote in respect of that question.

(5) A voting member of the Authority must at the commencement of a meeting inform the Chairperson of any matter on the agenda for the meeting in which he or she has either directly or indirectly, personally or by his or her spouse, partner, business associate or company, any pecuniary or business interest and that member must vacate the meeting room upon the relevant matter coming up for discussion and the vacation of the meeting room by the member must be noted in the minutes of the meeting.

(6) A member of the Authority must not, either directly or indirectly, except in the performance of a function or duty under or in connection with this or any other written law or as required by any other legal duty, make a record of or divulge or communicate to any person information concerning the affairs of another person which the member acquires by reason of his or her office as a member.

(7) The Chairperson must call a special meeting to be held within 7 days of receipt of a written request for the purpose addressed to the Chairperson by any 2 voting members of the Authority or by the Minister.

(8) Minutes in proper form of every meeting of the Authority must be kept by the Secretary and confirmed by the Meeting at the next meeting of the Authority. The Chairperson and/or the Secretary should sign the minutes once confirmed.

(9) The validity of any proceedings of the Authority is not affected by any vacancy in its membership or by any defect in the appointment of any of its members.

(10) Subject to subsection (11), a decision of the Authority is valid, even though a meeting of the Authority was not convened, if –

- (a) proper notice of the proposed decision was given to all the voting members; and
- (b) it is signed or assented to by letter, telegram, telex, facsimile or electronic mail transmission by a majority of voting members.

(11) If any voting member has assented to a decision by telegram, telex, facsimile or electronic mail transmission, the member's assent must be subsequently authenticated by his or her signature.

(12) Subject to the foregoing, the Authority may regulate its own procedure.

8.—(1) The Head of the Physical Planning Unit is the chief executive officer of the Authority and, subject to any general or special directions of the Authority, is responsible for carrying out the general policy of the Authority.

(2) The Head signs and issues all notices granting or refusing permission for the development of land, enforcement notices, stop notices and other documents authorized by the Authority to be issued under this Act.

Head of the
Physical
Planning Unit.

(3) The functions conferred upon the Head by this Act, other than the powers mentioned in subsection (2), may be exercised by any member of the staff of the Authority who is authorized to perform those functions by the Head in writing.

aff of the
authority.

9.—(1) The staff of the Physical Planning Unit are deemed to be the staff of the Authority for the purposes of this Act.

(2) The Authority may retain the services of experts as short-term or long-term consultants and may pay them such remuneration as the Minister approves.

power to
delegate.

10. Subject to this Act, the Authority may delegate to any member or committee, the Head or any other person or statutory body the power and authority to carry out on its behalf such functions as the Authority determines.

Coordination
with referral
agencies.

11.—(1) The Authority must, not later than 3 months after this Act comes into force, after consultation with the relevant public agencies, formulate and submit for the approval of Cabinet an administrative scheme for coordination between the Authority and the public agencies in respect of the expeditious processing of applications.

(2) An administrative scheme approved by Cabinet pursuant to subsection (1) may be revoked or altered by a revised scheme which has been prepared by the Authority after consultation with the relevant public agencies and approved by Cabinet.

Limitation of
personal
liability.

12. Neither the Minister, any member of the Authority, any person co-opted to help the Authority in dealing with any matter, the Head or any other member of the staff of the

Authority is liable in any court for or in respect of 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 PLANNING

13.—(1) The Head must prepare a physical plan for the whole of Grenada.

Duty to prepare
physical plans.

(2) In preparing a physical plan for Grenada the Head may adopt, with or without variations, a physical plan for any area of Grenada proposed by any person who has an interest in that area, or by a community situated in or the local authority for that area.

(3) A physical plan prepared under this section requires the approval of the Authority.

14.—(1) A physical plan prepared or adopted under section 13 must -

Contents of
physical plans.

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

(2) A physical plan may as appropriate -

- (a) allocate land for conservation or for use or development for agricultural, residential, industrial, commercial, tourism 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) provide for the matters set out in the First Schedule.

Preparation of physical plans.

15.—(1) In the course of preparation of a draft physical plan the Head must -

- (a) collaborate with any governmental organization which has an interest in the matters for which proposals may be made in the plan, including but not limited to the management of water and other natural resources, Crown lands, the natural and cultural heritage, environmental protection, economic development, agriculture, industry, tourism, commerce, urban development and transportation; and
- (b) consult with any non-governmental organization which has an interest in any such matters.

(2) Before finalizing the contents of a draft physical plan the Head must take reasonable steps to ensure that -

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

(3) In any case where a physical plan is concerned wholly or in part with an area governed by a local authority, the Head must, before submitting the draft plan to the Minister for approval, provide a copy of the draft plan to the local authority for its consideration; and, if the local authority wishes to make any objections or representations in respect of the draft plan, it must submit them to the Head in the time and manner specified by the Head.

16.—(1) When the Head has prepared or adopted a draft physical plan, the Authority must submit a copy to the Minister and make copies available for public inspection at its offices or any other places the Authority considers appropriate to bring the plan to the attention of persons who are likely to be affected, directly or indirectly, by the proposals in it.

Approval of physical plans.

(2) The Authority must publish in the *Gazette* and at least one newspaper in general circulation in Grenada a notice of the places where and times when the draft physical plan may be inspected and must give such other publicity to the plan 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 make representations to the Authority with regard to the proposals in it.

(3) Any person may, within 8 weeks after publication in a newspaper of the notice referred to in subsection (2), make oral or written representations on the draft physical plan to the Authority.

(4) After the expiry of the period prescribed by subsection (3) for the making of representations on a draft physical plan, the Authority must consider the representations made and forward a report on them, together with its own comments, to the Minister.

(5) After considering the draft physical plan submitted pursuant to subsection (1) and the Authority's report on representations from the public and its comments on them submitted pursuant to subsection (4), the Minister may accept the plan, with or without modifications, or may reject it.

(6) If a draft physical plan has been submitted to and accepted by the Minister, with or without modifications, the Minister must submit it for the approval of Parliament.

(7) When a physical plan is approved by affirmative resolution of Parliament, the Authority must cause notice of the approval to be published in the *Gazette* and the plan has full force and effect from the date of such publication.

(8) The Authority must make copies of an approved plan available for inspection at its offices and for sale to the public at a reasonable price.

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

(2) Without limiting subsection (1), the Head must at least once in every 5 years after the date on which a physical plan comes into operation review and report on the plan as aforesaid.

(3) The provisions of this Act with respect to the preparation and approval of a physical plan apply with necessary modifications to any proposal for alteration or addition to an approved plan made under this section.

18. (1) When a physical plan, or any amendment to a physical plan, has been approved by Parliament - Status of physical plans.

(a) the Authority must make the prescriptions of the plan a principal consideration in determining any application for permission to develop land in the area covered by the plan;

(b) the Government must be guided by the prescriptions of the plan in the preparation of any public sector development project or programme to be funded, in whole or in part, from Parliamentary appropriations.

(2) If 2 or more approved physical plans apply in part to the same area and any question arises as to the prescriptions for development of that area -

- (a) the plan which shows the greater degree of detail prevails over the plan which shows the lesser degree of detail; and
- (b) if the degree of detail of both plans is equivalent, the later plan has precedence over the earlier plan, unless it expressly provides otherwise.

(3) An approved plan remains in effect until rescinded by the Minister by notice in the *Gazette*.

PART IV

DEVELOPMENT CONTROL

Permission
required to
develop land.

19.—(1) Notwithstanding any other law to the contrary but subject to section 21, no person may commence or carry out the development of any land in Grenada without the prior written permission of the Authority.

(2) Without limiting subsection (1), a person is deemed to have commenced the development of land (unless the contrary is proved, the burden of which lies on any person charged) if that person has commenced the laying out of roads, the laying of water pipes, the clearing or levelling of land, the filling of ravines or swamps, or the construction of any building or any preparatory work which might indicate an intention thereby to improve the land or increase its value or make it in any way ready for any type of development.

(3) The power of the Authority to grant permission to develop land under this Part includes power to grant permission for the retention on land of any buildings or works constructed or carried out thereon before the date of the application, or for the continuation of any use of land

instituted before that date (whether without permission granted under this Part or in accordance with permission granted for a limited period only); and references in this Part to permission to develop land and to applications for permission are to be construed accordingly.

20.—(1) The following operations on or uses of land are not for the purposes of this Act deemed to involve the development of land —

Particular
operations and
uses which do
not constitute
development.

- (a) the carrying out of works for the maintenance, improvement or other alteration of any building, if the works affect only the interior of the building or do not materially affect the external appearance of the building;
- (b) the carrying out by or on behalf of the Government of any works required for the maintenance or improvement of a road if the works are carried out on land within the boundaries of the road;
- (c) the carrying out by or on behalf of the Government or any statutory body of any works for the purpose of inspecting, repairing or renewing any sewers, water mains, pipes, cables or other apparatus, including the breaking open of any road or other land for that purpose;
- (d) the use of any building or land within the curtilage of a dwelling house for any purpose incidental to the enjoyment of the dwelling house as such;

- (e) subject to any exceptions or limitations the Minister by order prescribes, the use of any land for the purposes of agriculture or forestry and the use for any of those purposes of any building on land so used; and
- (f) in the case of buildings or land that are used for the purpose of any class prescribed in an order made by the Minister under this section the use thereof for any other purpose of the same class.

(2) For the purposes of this Act -

- (a) 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;
- (b) the use for display of an advertisement of any land or external part of a building which has not been previously used for that purpose involves a material change in the use of that land or that part of that building;
- (c) the use as 2 or more separate dwelling units of any building previously used as one dwelling unit involves a material change in the use of that building;
- (d) the accumulation of derelict vehicles, scrap metal, refuse, spoil, mineral tailings, sludge, effluent or waste or discarded material of any

kind on land involves a material change of use of that land, notwithstanding that any such material had previously been deposited thereon;

- (e) 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, caravan, trailer, shipping container, multiparty tent, vendor's stall, barrow or food van, whether equipped with wheels or not, involves a material change in the use of that land.

21.—(1) The Authority may by an order (in this Act referred to as a "general development order") provide that the development of land of any class specified in the order is permitted and may be undertaken, either unconditionally or subject to any conditions or restrictions specified in the order, without the prior written permission of the Authority.

Permitted development.

(2) A general development order may be revoked or varied by a subsequent general development order made by the Authority.

(3) A general development order made by the Authority must be submitted to the Minister for approval and upon being approved must be published in the *Gazette* and come into effect from the date of such publication.

22.—(1) An application to the Authority for permission to develop land must be made in triplicate on a form approved by the Authority and must be accompanied by -

Application for permission to develop land.

- (a) a map sufficient to identify the land to which it relates and such plans, drawings and other materials as the Head considers necessary to describe the development which is the subject of the application;
- (b) a notice in writing signed by the owner of the land to which the application relates, or an agent of the owner, acknowledging that the owner has knowledge of and does not object to the making of the application;
- (c) any consent which the applicant is required by any law to obtain for or in connection with the development prior to applying for the permission of the Authority;
- (d) if required by regulations made under this Act or by a practice direction given by the Head, the certificate of a licensed land surveyor, architect or engineer, as the case may be; and
- (e) evidence of payment of the prescribed fee.

(2) An application for permission to develop land must be submitted to the Authority through the Physical Planning Unit.

Approval in principle.

23.—(1) A person who intends to apply for permission to undertake the development of land may apply to the Authority for approval in principle of the proposed development before preparing detailed plans.

(2) The Authority may grant approval in principle, with or without conditions, subject to the subsequent approval of the Authority with respect to any matter being reserved until the detailed plans have been submitted, or may refuse to grant approval in principle.

(3) Approval in principle granted under subsection (2) is not permission to commence development and the applicant must comply with the provisions of section 22 (1) before such permission can be granted.

(4) Approval in principle granted under this section may be revoked, without compensation, if in the opinion of the Authority a situation has subsequently arisen which constitutes a danger to public health, safety or welfare.

(1) In addition to the information required by the application form, the Authority may in writing request the applicant to provide any further information necessary to determine the application.

Requirement for further information.

(2) If such further information is requested by the Authority, the application must be treated for the purposes of section 27 as having been made on the date when the further information is received by the Authority.

(3) If the applicant does not furnish the further information requested by the Authority within a reasonable time, the Authority may give the applicant notice that the application cannot be determined and has been cancelled; whereupon the Authority must return the cancelled application to the applicant.

(4) If an application is cancelled pursuant to subsection (3), the applicant is not entitled to a refund of the application fee.

Environmental
Impact
Assessment.

25.—(1) In addition to requesting further information under section 24, the Authority may require an Environmental Impact Assessment to be carried out in respect of any application for permission to develop land in Grenada including an application for approval in principle, if the proposed development could significantly affect the environment.

(2) Unless the Authority for good cause otherwise determines, an Environmental Impact Assessment must be carried out in respect of any application for development of a kind mentioned in the Second Schedule.

(3) The Authority must not grant permission for the development of land pursuant to an application to which this section applies unless it has first taken the report on the Environmental Impact Assessment into account.

(4) The Minister may make regulations providing for —

- (a) the criteria and procedures for determining whether a development is likely to significantly affect the environment so that an Environmental Impact Assessment is required;
- (b) the procedures for settling the scope of an Environmental Impact Assessment to be carried out by the applicant in respect of any development;
- (c) the minimum contents of a report on an Environmental Impact Assessment;

(d) the qualifications, skills, knowledge or experience which must be possessed by persons conducting Environmental Impact Assessments for the purposes of this Act;

(e) the procedures for public participation in the Environmental Impact Assessment process and public scrutiny of any report on an Environmental Impact Assessment submitted to the Authority;

(f) the consideration by the Authority of an application in respect of which an Environmental Impact Assessment is required, including the criteria and procedures for review of the report.

(5) If the Authority notifies an applicant that an Environmental Impact Assessment is required, the Physical Planning Unit and any other public agency must, if requested by the applicant, enter into consultation with the applicant to determine whether that agency has in its possession any information which the applicant considers relevant to the preparation of the Environmental Impact Assessment and, if it does, the agency should make any such information available to the applicant and allow the applicant to take copies thereof on payment of the cost of making the copies, but the agency is not required to disclose confidential information to the applicant.

(6) If the Authority issues a notice under this section notifying the applicant that an Environmental Impact Assessment is required, it must inform any agency or

department of Government having responsibility for the issue of any licence, permit, approval, consent or other document of authorization in connection with any matter affecting the development, and such agency or department must not grant the licence, permit, approval, consent or other document of authorization unless it has been notified by the Authority that the notice has been complied with and that the Authority has granted permission for the proposed development.

Determination
of applications.

26.—(1) If application is made to the Authority for permission to develop land pursuant to section 22, the Authority must have regard to the provisions of the physical plan for the area within which the land is situated, if any, and to any other material considerations and may grant permission either unconditionally or subject to such conditions as it thinks fit, or may refuse permission.

(2) The Authority must give the applicant notice in writing of its decision and, in the case of an application for permission to develop land, if the Authority decides to grant permission subject to conditions or to refuse it, the notice must state the reasons.

(3) If after consideration of the application and examination of any plans submitted with it, the Authority considers it desirable so to do, it may refer the plans to the applicant for amendment and, if it does so, the running of time for giving its decision on the application is suspended for the purposes of section 27 until the amended plans are resubmitted by the applicant.

(4) If the Authority grants permission subject to conditions to any person to undertake any development, the Authority may if it considers it necessary enter into an arrangement or agreement with the person in order to give effect to the conditions.

(5) The Authority may require any developer to provide a bond, or any other instrument of guarantee of performance, in such sum as the Authority considers necessary to give effect to any permission to undertake development.

(6) Notwithstanding subsections (3) and (4) and anything that may be done under them, the Authority may at any time revoke its permission to develop the land in question or any part thereof, without compensation, if any condition attached to the permission to develop the land is not complied with.

27.—(1) If an application for permission to develop land is duly made to the Authority, the Authority must give its decision within 90 days from the date of receipt of the application or any further period agreed upon in writing between the applicant and the Authority.

Limitation
period.

(2) Unless the Authority gives its decision within the period prescribed by or agreed under subsection (1), section 29 applies in relation to the application as if it had been refused by the Authority.

28.—(1) If permission for the development of any land is refused by the Authority, or is granted by the Authority subject to conditions, the applicant may, within 30 days from receipt of notice of the decision, appeal in writing to the Physical Planning Appeal Tribunal, setting out the grounds of the appeal.

Right of appeal.

(2) The Tribunal consists of not less than 3 members appointed by the Minister, of whom the chairperson must be a legal practitioner of not less than 10 years standing.

(3) Members of the Tribunal are appointed for 2 years but are eligible for re-appointment.

(4) The Minister must designate a public officer as secretary to the Tribunal.

(5) The appointment of the members of the Tribunal and the termination of office of any member, whether by death, resignation, removal, lapse of time or otherwise, must be notified in the *Gazette*.

(6) The Authority must pay to each member of the Tribunal such remuneration and allowances, if any, as the Minister determines.

(7) Before determining an appeal referred to it under this section, the Tribunal must, if either the applicant or the Authority so desires, give each of them the opportunity of appearing before and being heard by it.

(8) If an appeal is duly made to the Tribunal, the Tribunal must give its decision within 90 days from the date of receipt of the appeal or any further period approved by the Minister.

(9) The decision of the Tribunal on any appeal referred to it must be conveyed to the Minister in writing and the Minister must by notice in writing inform the applicant and the Authority of the decision.

(10) The Tribunal's decision on any appeal is final.

29. Without prejudice to the provisions of this Part as to the lapse, modification or revocation of any permission to develop land, such permission, unless the notice of

permission provides otherwise, enures for the benefit of the land concerned and of all persons for the time being interested in that land.

(1) If permission for the development of land is not taken up and used within a period of 12 months from the date on which it was granted, it lapses.

When
permission
lapses.

(2) A person who intends to carry out a development for which permission has been granted must give notice to the Authority of the date on which the development will commence.

(3) If, after the date specified in a notice of commencement given pursuant to subsection (2), the Authority is not satisfied that the development has been substantially commenced, it must notify the person from whom the commencement notice was received that the permission will lapse by a specified date if the development is not commenced to its satisfaction before that date.

(4) If a development (other than a development by way of a material change in the use of any land) is not completed within 30 months after it is commenced, or such other period as is specified in the notice granting permission, the permission lapses without prejudice to the status of such of the permitted works as are then complete.

(5) When the Authority has been notified in writing by the developer that permitted building or engineering operations have been completed, the Authority must certify whether the works have been completed in accordance with the permission granted for that development.

(6) If permission has been granted for the development of land by way of subdivision and the undertaking of engineering operations in relation thereto, no parcel of land within the approved subdivision may be granted, sold, let or otherwise transferred to any person for any purpose whatsoever, unless a completion certificate has been issued under this section in relation to the approved engineering operations.

(7) All constructions sites must have a Billboard stating the name of the contractor, the applicant name, the application number, date construction commence.

Development to be in accordance with approved plans.

31.—(1) Whenever plans have been submitted to the Authority on an application for permission to develop land and such permission has been granted, the development must be carried out in accordance with the plans and any conditions imposed by the Authority.

(2) The Head may approve minor variations to an approved plan which do not alter or affect the terms and conditions of the permission granted by the Authority in any material respect.

(3) If, before or during the course of any development of land, the developer finds that it is impracticable or uneconomic to carry out the development in conformity with the plans as approved by the Authority, the developer may apply to the Authority for permission to amend the plans and the Authority may grant or refuse permission for the amendment, or may return the plans to the developer for further amendment.

(4) If the Authority refuses permission to develop land in accordance with plans amended as in subsection (3), it must at the time of the refusal give to the applicant in writing its reasons for refusing, in which case section 28 applies as in the case of an original application to the Authority.

32.—(1) Subject to this section, if it appears to the Minister that it is expedient, having regard to national security or the general economic policy of the Government or any other material consideration, that any permission to develop land granted by the Authority should be modified or revoked, the Authority must by written notice to the person entitled to the benefit of the permission revoke or modify the permission to develop land to the extent the Minister directs.

Modification or revocation of permission.

(2) The power conferred by subsection (1) to modify or revoke permission to develop land may be exercised -

- (a) if the permission relates to carrying out building or other operations - at any time before those operations have been completed;
- (b) if the permission relates to a change of use of any land - at any time before the change has taken place,

the modification or revocation of permission for the carrying out of building or other operations does not affect any of those permitted operations that have been previously carried out.

(3) A person who has incurred expenditure in carrying out work that is rendered abortive by the modification or revocation of permission under this section, including any expenditure incurred in the preparation of plans

or upon similar matters for the purposes of or preparatory to such work, or who has otherwise suffered loss or damage directly attributable to such modification or revocation, is entitled to adequate compensation in respect of that expenditure, loss or damage.

(4) No compensation is payable under subsection (3) in respect of loss or damage consisting of the depreciation in value of any interest in land by virtue of the modification or revocation of permission.

Reservation of
open space.

33.—(1) The Authority may, as a condition subject to which permission is granted to develop land, require the developer to provide, as part of the development programme, land reserved for public recreation or as an open space.

(2) If the Authority requires land to be reserved for public recreation or as an open space in accordance with subsection (1), the land must be converted to and maintained by the developer for the purpose for which it was reserved, in compliance with any conditions subject to which the permission was granted.

(3) Any land that has been reserved by the Authority for public recreation or as an open space may be acquired by the Crown compulsorily in accordance with the provisions of the Land Acquisition Act (Cap. 159), except that the compensation payable in respect of land acquired under this section must, in the absence of agreement, be assessed assuming its use to be for public recreation or as an open space and its potential development value to be negligible.

(4) A completion certificate must not be issued in respect of any development to which this section applies until —

(a) the developer has converted the land reserved for public recreation or as an open space to the purpose for which it was reserved and the Authority is satisfied that the arrangements made by the developer for the continued maintenance of the land comply with the conditions subject to which permission was granted; or

(b) the land has been vested in the Crown.

(5) The Crown may place any land acquired pursuant to this section under the management of a statutory undertaker in order to ensure the preservation and use of the land for the purpose for which it was reserved.

PART V

ENFORCEMENT OF DEVELOPMENT CONTROL

34.—(1) If it appears to the Authority that —

Enforcement
notices.

(a) any development of land has been carried out after this Act comes into force without any permission required under this Act; or

(b) the developer has not complied with any condition subject to which permission was granted with respect to any development under this Act,

the Authority may, if it considers it expedient to do so having regard to the provisions of any development plan for the area, and to any other material considerations, within 4 years of the

development being carried out or, in the case of non-compliance with a condition, the date of the alleged failure to comply with it, serve an enforcement notice on the owner and occupier of the land.

- (2) An enforcement notice issued under subsection (1) -
- (a) must specify the development that is alleged to have been carried out without permission or the matters in respect of which it is alleged that the development does not comply with the conditions subject to which permission was granted, as the case may be;
 - (b) may require the steps specified in the notice to be taken, within a period specified, for restoring the land to its condition before development took place or for securing compliance with the conditions, as the case may be, including, but not limited to -
 - (i) the cessation, demolition or variation of any building, engineering, mining or other operations;
 - (ii) the discontinuance of any use of land;
 - (iii) the carrying out of any building, engineering or other operations.

(3) An enforcement notice must be served not less than 28 days before it takes effect and, except as otherwise provided in this section, takes effect at the expiration of the period specified in it.

(4) The fact that the Authority fails to serve an enforcement notice on either of the persons mentioned in subsection (1) does not invalidate any proceedings under the enforcement notice against the other of those persons.

(5) If, before the enforcement notice takes effect, an application is made to the Authority for permission for -

- (a) the retention on land of any buildings or works to which the enforcement notice relates; or
- (b) 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 and, if the permission applied for is granted by the Authority, the enforcement notice does not take effect.

(6) If, before the enforcement notice takes effect, an appeal is made to the court under section 35 by a person on whom the enforcement notice was served, the operation of the enforcement notice is suspended pending the final determination or withdrawal of the appeal.

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

(8) The Authority may at any time revoke an enforcement notice without affecting its power to serve another enforcement notice in respect of the same alleged breach of the provisions of this Act.

(9) If the Authority revokes an enforcement notice under subsection (8), it must serve notice of the revocation on every person on whom the enforcement notice was served.

Right to appeal
against
enforcement.

35.—(1) A person upon whom an enforcement notice has been served who is aggrieved by the enforcement notice, may at any time before the enforcement notice takes effect, appeal against the notice to a magistrate's court having jurisdiction over the place within which the land to which the notice relates is situated.

(2) On an appeal under subsection (1), the court—

(a) if satisfied that permission was granted for the development to which the notice relates, or that no such permission was required in respect of that development, or the conditions subject to which permission was granted have been complied with, as the case may be, must quash the enforcement notice to which the appeal relates; or

(b) in any other case, must dismiss the appeal.

(3) If an appeal is dismissed by a magistrate's court pursuant to subsection (2)(b), the court may direct that the enforcement notice does not take effect until a date, not later than 28 days from the date of determination of the appeal, the court thinks fit.

(4) A person aggrieved by a decision of a magistrate's court under subsection (2) may appeal against that decision to the Court of Appeal.

36.—(1) If the Authority has served an enforcement notice with respect to any land, but considers it expedient to prevent, before the expiry of the period allowed for compliance with that notice, the carrying out of the development to which the notice relates, the Authority may also serve a stop notice in respect of that land, prohibiting any person on whom it is served from carrying on or continuing any specified operations on the land which—

Stop notices.

(a) are alleged in the enforcement notice to have been carried out without permission or in breach of the conditions subject to which permission was granted; or

(b) are so closely associated with those operations as to constitute substantially the same operations.

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

(3) A stop notice may be served by the Authority on any person who appears to have an interest in the land to which it relates or to be concerned with the carrying out of any operations on the land.

(4) A stop notice takes effect on its date of service and, without prejudice to subsection (6), ceases to have effect when—

(a) permission is granted for the retention of the development to which the enforcement notice relates;

- (b) the enforcement notice to which the stop notice relates is revoked by the Authority or quashed by the court; or
- (c) the Authority enters upon the land pursuant to section 38.

(5) A stop notice is not invalid by reason that the enforcement notice to which it relates was not properly served on the owner and occupier of the land as required by section 34, if it is shown that the Authority took all such steps as were reasonably practicable to effect proper service.

(6) The Authority may at any time revoke a stop notice without affecting its power to serve another stop notice in respect of the same alleged breach of the provisions of this Act.

(7) If the Authority revokes a stop notice under subsection (6), it must serve notice of the revocation on every person on whom the stop notice was served.

(8) A person who at the time a stop notice was served had an interest in the land to which it relates is entitled to compensation in respect of any loss or damage, including any sum payable for breach of contract, directly attributable to compliance with the prohibition contained in the notice, if the stop notice ceases to have effect in any of the following circumstances -

- (a) the enforcement notice to which the stop notice refers is quashed on the grounds specified in paragraph (a) of section 35(2);

- (b) the enforcement notice is revoked by the Authority otherwise than in consequence of the grant by it of permission for the development of land to which it relates or for its retention or continuation without compliance with the condition or limitation subject to which it was permitted, as the case may be; or

- (c) the stop notice is revoked.

37.—(1) If within the period specified in an enforcement notice, or such further period as the Authority allows, any steps required by the enforcement notice to be taken (other than the discontinuation of any use of land) have not been taken, the Authority may by its staff or contractors enter upon the land and take those steps and may recover as a debt in any court any expenses reasonably incurred by the Authority for those purposes from the person who is then the owner of the land.

Power to enter
land and execute
remedial works.

(2) A person who obstructs or interferes with the exercise by the Authority of the power vested in it by subsection (1) commits an offence and is liable on summary conviction to a fine of \$1,000.

(3) In any proceedings for the recovery of expenses brought by the Authority pursuant to subsection (1), a defendant who was entitled to appeal to the Court under section 35 but who failed to do so is entitled to dispute the validity of the action taken by the Authority under subsection (1) on any ground that could have been raised in an appeal.

(4) All expenses incurred by the owner or occupier of any land for the purposes of complying with an enforcement notice served under section 35 in respect of any development, and any sums paid by the owner of the land to the Authority in respect of the expenses incurred by the Authority pursuant to subsection (1) of this section, are held to have been incurred or paid for the use and at the request of the person by whom the unauthorized development was carried out.

Non-compliance
with
enforcement
of stop notice.

38.—(1) If—

- (a) an enforcement notice has been served on a person who was, when the enforcement notice was served on that person, the owner of the land to which the notice relates; and
- (b) within the period specified by the notice or such further period as the Authority allows any steps required by the enforcement notice to discontinue any operations or to remove, demolish or alter any buildings or other works on that land have not been taken,

that person, whether or not still the owner of the land, commits an offence and is liable on summary conviction to a fine of \$10,000 and, in the case of a continuing offence, to a further fine of \$500 for every day after the first day that the requirements of the enforcement notice were not met.

(2) A person who carries out any operations to reinstate or restore buildings or other works that have been demolished or altered in accordance with an enforcement notice commits an offence and is liable on summary conviction to a fine of \$10,000.

(3) If, by virtue of an enforcement notice, any conditions are required to be complied with in respect of the carrying out of any operations on any land, a person who, after the notice takes effect, carries out or causes or permits the operations to be carried out in contravention of the enforcement notice commits an offence and is liable on summary conviction to a fine of \$10,000 and, in the case of a continuing offence, to a further fine of \$500 for every day after the first day that the operations are so continued.

(4) If, by virtue of an enforcement notice, any use of land is to be discontinued, or any conditions are required to be complied with in respect of the use of land, a person who, after the notice takes effect, uses the land or causes or permits the land to be used in contravention of the enforcement notice commits an offence and is liable on summary conviction to a fine of \$10,000 and, in a case of a continuing offence, to a further fine of \$500 for every day after the first day that the use is so continued.

(5) A person on whom a stop notice has been served who carries out, or causes or permits to be carried out any operations prohibited by the notice, commits an offence and is liable on summary conviction to a fine of \$10,000 and, in the case of a continuing offence, a further fine of \$500 a day for every day after the first day on which the offence continues.

39. In addition to any other remedy provided by this Act, the Authority may in any case that it thinks fit institute a civil injunction for an injunction to prevent any person from violating the provisions of this Act, or to enforce any enforcement notice or stop notice, whether or not it has exercised or proposes to exercise any of its other powers under this Act.

PART VI

CONSERVATION OF THE NATURAL AND
CULTURAL HERITAGE

Authority to
protect the
natural and
cultural heritage.

40. The Authority functions as the national service for the identification, protection, conservation and rehabilitation of the natural and cultural heritage of Grenada in accordance with the United Nations Educational, Scientific and Cultural Organisation's Convention for the Protection of the World Cultural and Natural Heritage, to which Grenada is a party.

Establishment,
composition
and function
of Advisory
Committee.

41.—(1) There is to be established a committee to be called the Natural and Cultural Heritage Advisory Committee to act in an advisory capacity to the Authority on all matters pertaining to the protection of the natural and cultural heritage of Grenada.

(2) Without limiting subsection (1), the functions of the Committee are to advise the Authority with respect to—

- (a) the compilation, adoption or amendment of lists of buildings, monuments and sites of prehistoric, historic or architectural merit or interest;
- (b) the issue of interim preservation orders for the urgent protection of unlisted buildings, monuments and sites of prehistoric, historic or architectural merit or interest;
- (c) the determination of applications for permission to alter or demolish any listed building or monument or to disturb any listed site;

- (d) the compilation or amendment of lists of places of natural beauty or natural interest and the declaration of any such area to be an environmental protection area;
- (e) the determination of applications for the development of land within environmental protection areas;
- (f) the incorporation of the protection, conservation and rehabilitation of the natural and cultural heritage into planning policy at the level of local, regional and national development plans;
- (g) the preparation of plans for the protection, conservation and rehabilitation of buildings and groups of buildings of historic or architectural merit or interest, including the designation of peripheral protection belts or buffer zones and the conditions for the use and development of land in such areas;
- (h) the designation of Heritage Conservation Areas to protect groups of buildings of historic or architectural value;
- (i) the determination of applications for the construction of new buildings on land situated in Heritage Conservation Areas or in the vicinity of listed buildings or monuments, or on listed sites;
- (j) the issue of abatement notices for the preservation of amenities; and

- (k) the regulation of outdoor advertising.
- (3) The Committee consists of the Head as Chairperson, and not more than 9 other persons appointed by the Minister of whom -
 - (a) one must be a senior officer of the Ministry responsible for culture;
 - (b) one must be a senior officer of the Ministry responsible for tourism;
 - (c) one must be a senior officer of the Ministry responsible for fisheries and forestry;
 - (d) one must be the chief executive officer of the National Parks Authority;
 - (e) one must be a representative of the Grenada National Trust and Historical Society;
 - (f) one must be a representative of the Willie Redhead Foundation;
 - (g) one must be a representative of the Grenada Society of Architects;
 - (h) one must be a representative of the Grenada Institute of Professional Engineers; and
 - (i) one must be a person appointed after consultation with the principal non-governmental organizations involved in community service activities.

(4) Every member of the Committee, unless that member's appointment is sooner terminated by the Minister, or that member sooner dies or resigns by notice in writing to the Minister, holds office for 3 years from the date of his or her appointment, but is eligible for reappointment.

(5) The Authority may pay to each member of the Committee such remuneration and allowances, if any, as the Minister determines.

(6) The Committee may act notwithstanding any vacancy in the number of members constituting the Committee.

(7) The Committee may regulate its own procedure.

42.—(1) The Authority, on the advice of the Committee -

- (a) may compile lists of buildings, monuments and sites of prehistoric, historic or architectural merit or interest;
- (b) may adopt, with or without modifications, any such lists compiled by the Grenada National Trust under the National Trust Act (Cap. 207); and
- (c) may amend any such lists from time to time.

Listing of buildings, monuments and sites.

(2) Before compiling, adopting or amending any list under this section, the Authority must take reasonable steps to ensure that -

- (a) adequate publicity is given to the proposed listing of any building, monument or site;

- (b) the owner and occupier of the building or land and any other person who wishes to make any objection or representation with respect to the proposed listing of any building, monument or site, is given an adequate opportunity to do so and
- (c) any objections or representations made with respect to the proposal are taken into account in deciding whether the building, monument or site should be listed.

(3) As soon as practicable after a list has been compiled or adopted under subsection (1), or any amendments to a list have been made, the Authority -

- (a) must serve on every owner and occupier of every building, monument or site included on the list a notice stating that the building, monument or site has been included in or removed from the list, as the case may be; and
- (b) must publish any such list or amendment in the *Gazette*.

Effect of listing.

43.—(1) No person may execute or cause or permit to be executed any works for the demolition or alteration of a building or monument or disturbance of a site included in a list compiled or adopted under section 43 which would seriously affect its character, whether or not such works would ordinarily constitute permitted development under this Act, unless -

- (a) notice of the proposed works is given to the Authority at least 2 months before the works are commenced;

- (b) the Authority has granted its consent in writing, unconditionally or subject to such conditions as it sees fit, for the execution of the proposed works.

(2) When the Authority receives notice of any proposed works under subsection (1), it must as soon as practicable send a copy of the notice to the Committee for its consideration and comments.

(3) Subject to subsection (4), a person who executes or causes to be executed any works for the demolition or alteration of a listed building or monument or the disturbance of a listed site for which the Authority has not granted its consent under this section, or in breach of any condition subject to which the Authority granted such consent, commits an offence and is liable on summary conviction to a fine of \$500,000 and 18 months imprisonment.

(4) Nothing in this section renders unlawful the execution of any works which are urgently required in the interests of health or safety or for the preservation of the building, monument or site or of neighbouring property, provided that notice thereof is given to the Authority as soon as practicable after the necessity for the works arises.

44.—(1) If it appears to the Authority to be expedient to make urgent provision for the preservation of any unlisted building, monument or site, the Authority may for that purpose by an order (in this Act referred to as an "interim preservation order") published in the *Gazette* restrict the demolition, alteration or extension of that building or monument or the disturbance of that land.

Interim
preservation
orders.

(2) An interim preservation order must -

- (a) specify the building, group of buildings, monument or site to which it applies;
- (b) state the effect of the order and the date on which it comes into force; and
- (c) invite the owners and occupiers of the property 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 an interim preservation order must be—

- (a) affixed in a prominent place on the land, building or site which it applies; and
- (b) served on every owner and occupier of the property to which it applies.

(4) An interim preservation order remains in force for a period of 90 days and ceases to have effect at the end of that period unless the building, monument or site to which it applies is listed by the Authority under section 43 before the end of that period.

(5) If an interim preservation 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 or other monument or site.

(6) If, after an interim preservation order has been issued, the Authority decides not to list the building, monument or site to which the order relates, the Authority

must not serve a fresh interim preservation order with respect to the same building, monument or site for at least 12 months after the date when the previous notice ceased to have effect.

(7) If any works have been carried out in contravention of an interim preservation order, the Authority may require the restoration of the affected building, monument or site to its former state at the expense of the owner of the building, monument or site.

45.—(1) Every owner and occupier of a listed building, monument or site is responsible for the conservation and rehabilitation of it.

Conservation
and preservation
of listed
buildings,
monuments
and sites.

(2) The Authority must, 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 them.

(3) The Authority may serve on the owner or occupier of any listed building, monument or site a notice requiring specified steps to be taken to conserve or rehabilitate the building or land within a specified time.

(4) If 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), the Authority may—

- (a) by its staff or contractors, enter upon the premises and take the steps required to conserve or rehabilitate the building or land 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) compulsorily acquire the building or land in accordance with the provisions of the Land Acquisition Act (Cap 159).

Heritage Conservation Areas.

46.—(1) The Authority, on the advice of the Committee, may, by order published in the *Gazette*, designate any area containing a group of separate or connected buildings which, because of their history or architecture, their homogeneity or their place in the landscape, are of outstanding universal 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 a Heritage Conservation Area.

(2) Before making an order to designate any area as a Heritage Conservation Area pursuant to subsection (1), the Authority must take reasonable steps to ensure that —

- (a) adequate publicity is given to the proposed designation of the area;
- (b) the owners and occupiers of buildings and land in the area and any other person who wishes to make any objection or representation with respect to the proposed designation of the area, are given an adequate opportunity to do so; and
- (c) any objections or representations made with respect to the proposal are taken into account in deciding whether the area should be designated.

(3) The Authority must, from time to time, formulate and publish proposals for Heritage Conservation Areas, including conditions for the use of buildings and land other than listed buildings, monuments and sites within the area and

such proposals must be incorporated into the physical plan for the part of Grenada in which the Heritage Conservation Area is located, if any.

Protection of natural areas.

47.—(1) The Authority, on the advice of the Committee, may compile and amend from time to time lists of places of natural beauty or natural interest, including submarine and subterranean areas, and their flora and fauna, not being areas —

- (a) set aside as forest reserves or sanctuaries for wildlife under any enactment;
- (b) designated or declared as national parks or protected areas under any enactment; or
- (c) regulated as marine protected areas under any enactment.

(2) If the Authority is of the view that it is desirable to afford special protection to any area on a list compiled under subsection (1), the Authority may by order published in the *Gazette* declare that area to be an environmental protection area.

(3) Before making an order pursuant to subsection (2) the Authority must take reasonable steps to ensure that —

- (a) adequate publicity is given to the proposed declaration within the area which it proposes to protect;
- (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;

- (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) authorize the carrying out within the environmental protection area of any works that are 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 specified class, within the area;
 - (d) provide for control of the use of land within the area for the purposes of agriculture, forestry or fisheries;
 - (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) If any land within an area declared to be an environmental protection area by order under subsection (2) depreciates in value as a result of any restriction placed on its use or development by the order, adequate compensation must be paid to the owners of the land in accordance with this Act.

Preservation of amenities.

48.—(1) The Authority may, as a condition subject to which permission is granted for the development of land, make provision for the preservation of the amenities of any area, including the protection of existing trees or the planting of new trees.

(2) If it appears to the Authority that the amenities of any area are seriously injured by reason of —

- (a) the ruinous, unsafe or dilapidated condition of any building;
- (b) the condition of any garden, vacant site or other open land;
- (c) the deposit of refuse, spoil or derelict vehicles on any land; or
- (d) the occupation of any land or any public road for any unauthorized purpose, including the repair of vehicles,

the Authority may serve on the owner or occupier of the building or land, or the person responsible for the injury, a notice requiring the steps to be taken for abating the injury specified in the notice.

(3) If the owner or occupier of the building or land cannot be ascertained, the Authority must publish in at least one newspaper in general circulation in Grenada the notice referred to in subsection (2).

(4) An owner or occupier on whom a notice is served under subsection (2) or in respect of whom a notice is published under subsection (3) may within 4 weeks of the

service or publication of the notice (whichever is earlier) make oral or written representations on the requirement to the Authority.

(5) After the expiry of the period prescribed by subsection (4) and after considering any representations by the owner or occupier, the Authority may confirm, vary or revoke the notice issued under subsection (2).

(6) If the notice is confirmed or varied, and if the notice (as varied, if that be the case) is not complied with, the Authority may execute the work required to abate the injury and recover from the owner or the occupier or the person responsible for the injury the expenses reasonably incurred by the Authority as a result.

Advertisement control.

49.—(1) No person may display an advertisement on any building or land except with the written permission of the Authority.

(2) The Minister may make regulations under this Act for restricting or controlling the display of advertisements so far as is expedient in the interests of amenity or public safety and, without limiting the foregoing, any such regulations may —

- (a) regulate the dimensions, appearance, and position of advertisements, the sites on which advertisements may be displayed and the manner in which they are to be affixed to buildings or land;

- (b) prescribe different provisions with respect to different areas or places and make special provisions with respect to areas or places defined in the regulations as areas of special control, the amenities of which appear to the Minister to require special protection;

- (c) prohibit the display in areas of special control of advertisements of the classes or descriptions specified in the regulations;

- (d) provide for the removal of any advertisement that is displayed in contravention of the regulations or the discontinuation of the use for the exhibition or display of advertisements of any site that is being used for that purpose in contravention of the regulations.

(3) Regulations made under this section may be made so as to apply to advertisements which are being exhibited or displayed on the date on which the regulations come into force or to the use for the exhibition or display of advertisements of any site which is being used for that purpose on that date.

(4) If the display of advertisements in accordance with regulations made under this section involves the development of land within the meaning of this Act, permission for that development is deemed to have been granted by virtue of this section, and no application is needed for such permission.

50.—(1) The owner or occupier of any building or land which is —

Appeals under this Part.

- (a) included in a list of buildings, monuments and sites of prehistoric, historic or architectural merit or interest compiled or adopted by the Authority pursuant to section 42; or
- (b) located within an area designated by the Authority as a Heritage Conservation Area in a designation order made under section 46.

may appeal in writing against that decision to the Tribunal setting out the grounds of the appeal.

(2) The provisions of section 28 apply with necessary modifications to the hearing of appeals made under this section.

(3) If on an appeal under this section the Tribunal decides that a listed building, monument or site should be removed from a list, or that any building or other land should be excluded from a Heritage Conservation Area, the Authority must amend the list or designation order accordingly.

PART VII

COMPENSATION AND ACQUISITION

Claims for compensation.

51.—(1) Compensation for which provision is made in this Act is only payable if a claim for it is made in accordance with this section.

(2) A claim for compensation alleged to be payable under this Act must be made in writing to the Minister within 6 months of the date upon which the act or circumstance which gave rise to the claim arose, unless the Minister in a particular case extends the period within which the claim may be made.

(3) The Minister may require a claimant to provide any further information in support of a claim for compensation necessary for its determination, and a decision on a claim may be deferred until after such further information has been received by the Minister.

(4) If a claim for compensation arises from a decision of the Authority and it appears to the Minister that the decision which gave rise to the claim for compensation might properly be withdrawn or modified, the Minister may refer the matter to the Tribunal for its determination as if the claim for compensation had included an appeal against that decision.

(5) Compensation payable under this Act must, in default of determination by agreement, be determined under the Arbitration Act, (Cap. 19) by a panel of arbitrators comprising—

- (a) one person nominated by the Minister;
- (b) one person nominated by the claimant; and
- (c) one other person chosen by agreement between the arbitrators and appointed by the parties, to be Chairperson of the panel.

(6) Compensation is not payable under this Act in respect of a decision by the Authority whereby permission is refused, modified or revoked for the development of land if, notwithstanding that refusal, modification or revocation, there is available with respect to that land permission for a development of the land consisting of the construction of industrial, commercial or residential buildings or any combination of such buildings.

Exclusion or limitation of compensation in certain cases.

Compulsory acquisition.

53.—(1) The Government may purchase by agreement any land which is required for the purposes of implementing a physical plan and may, if it is unable to acquire such land by agreement, acquire it in accordance with the provisions of the Land Acquisition Act (Cap. 159).

(2) If a claim for compensation has been determined under this Part, the Minister may, within one month of the date of such determination and before the compensation is paid, cause an offer in writing to purchase the land to which the compensation relates to be made to the person entitled to compensation and, if the person entitled to compensation is unwilling to sell the land, the Government may acquire it in accordance with the provisions of the Land Acquisition Act.

(3) The Government may, by way of sale or lease, dispose of land acquired compulsorily under this Part to any local authority, statutory body or other person or body for development in accordance with permission granted under Part IV.

PART VIII

MISCELLANEOUS

Register to be kept.

54. The Authority must maintain a register containing particulars of -

- (a) any application under section 22 for permission to develop land, including the name and address of the applicant, the date of the application and the development which is the subject of the application;

- (b) the date and effect of any decision made in respect of any application;
- (c) any appeal under section 28 in respect of such a decision and the decision made on the appeal;
- (d) any commencement notice received under section 30(2) and any completion certificate issued under section 30(5);
- (e) any modification or revocation under section 32 of any permission granted in respect of any application;
- (f) any enforcement notice or stop notice issued in respect of any development of land;
- (g) any permission granted under section 49(1) for the display of an advertisement;
- (h) any other matter required by this Act or the regulations to be included in the register.

(2) The register kept by the Authority pursuant to subsection (1) must include an index, in the form of a map, and both the register and the index may be kept in an electronic data storage and retrieval system.

(3) Every entry in the register must be made within 14 days of the date on which the decision, notice or event to which it relates was made, filed, issued or done.

(4) The register must be kept at the office of the Physical Planning Unit and any person is entitled to access to the information recorded in it free of charge and to take copies of the information on payment of the prescribed fee.

Powers of entry etc.

55.—(1) The Authority may in writing authorize any person to enter at any reasonable time any land and premises thereon —

- (a) in respect of which an application for permission to develop has been made to the Authority; or
- (b) in respect of which the Authority has reason to believe that an infringement of the Act has occurred or is about to occur,

for the purposes of inspection and survey.

(2) A person authorized under this section to enter upon any land or premises must, if so required, produce evidence of his or her authority before entering, and cannot claim admission as of right to any land or premises which are occupied unless 24 hours notice of intended entry is given to the occupier.

(3) A person who obstructs a person acting in the exercise of his or her authority under this section commits an offence and is liable on summary conviction to a fine of \$1,500.

Service of notices.

56. Any notice or other document required or authorized to be served or given under this Act, or under any regulation, order, notice, direction, agreement or other instrument or writing made under this Act, may be served or given either

- (a) by delivering it to the person on whom it is to be served or to whom it is to be given;
- (b) by leaving it at the usual or last known place of abode of the person, or if an address for service has been provided by the person, at that address;
- (c) by sending it by prepaid registered letter addressed to the person at the person's usual or last known place of abode, or, if an address for service has been provided by the person, to that address; or
- (d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at the registered or principal office, or sending it by prepaid registered letter addressed to the secretary or clerk of the company or body at that office.

57. If the development of any land is commenced or carried out without the written permission of the Authority, or carried out in a manner not in accordance with plans submitted or resubmitted to and approved by the Authority, every owner of the land, within the meaning of section 2, commits an offence.

Liability of landowners.

58. Unless a different penalty is specifically prescribed, a person who commits an offence under this Act is liable on summary conviction to a fine of \$10,000, and in the case of a continuing offence, to a further fine of \$500 for each day during which the offence continues.

General penalty.

Expenses of Authority etc.

59.—(1) All expenses incurred by the Authority or the Committee or the Tribunal in the discharge of their respective functions under this Act are, unless otherwise provided for, a charge on the Consolidated Fund.

(2) Any amount due to or by the Authority for any work done or expenses incurred under the provisions of this Act may be recovered summarily as a civil debt.

Qualification of existing law.

60.—(1) For the purpose of enabling development to be carried out in accordance with a permission granted under this Act, any conditions or regulations contained in any other law which would conflict with the conditions attached to a planning permission do not apply.

(2) The restrictions which may be imposed and the powers which may be exercised under this Act in relation to land may be imposed or exercised under it in relation to any land, notwithstanding that provision is made by any other written law in force at the commencement of this Act for authorizing or regulating the development of the land.

Regulations.

61.—(1) The Minister may make regulations generally for giving effect to this Act and, without limiting such powers, may make regulations -

- (a) prescribing development standards, including but not limited to the promulgation of a Building Code;
- (b) prescribing the form of any application notice, order, certificate or other document required to be made, issued or served under this Act;

- (c) prescribing the fees payable in respect of any application under this Act;
- (d) prescribing any thing required by this Act to be prescribed.

(2) The Minister may by Order amend either of the Schedules.

62. This Act binds the Government.

Act binds the Government.

63.—(1) The Town and Country Planning Act (Cap. 322) and the Land Development Control Act (Cap. 160) are repealed.

Repeal and saving.

(2) The Land Development Regulations and the Land Development (Fees) Regulations 2002 made under section 27 of the Land Development Control Act continue in force upon the coming into force of this Act until revoked or amended by regulations made under section 61.

(3) Any order made by the Development Control Authority and any other decision of the Authority under the Land Development Control Act continues to have effect as if made by the Authority under this Act.

(4) Where any document refers expressly or by implication to an enactment repealed by this Act the reference is (except where the context otherwise requires) to be construed as a reference to the corresponding provision of this Act.

64.—(1) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.

Commencement.

(2) The Minister may appoint different dates for the coming into force of different provisions but all provisions of this Act must be in force by the first anniversary of the date of assent.

Transitional.

65.—(1) Every application made under an enactment repealed by this Act and wholly or partly heard by the Development Control Authority 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 a repealed enactment that has not been wholly or partly heard by the Development Control Authority when this Act comes into force is to be taken as an application made under this Act and this Act applies accordingly.

(3) Where a period of time specified in an enactment repealed by this 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 that period began to run.

(4) Every appeal made under an enactment repealed by this Act that has been commenced 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.

(5) If, immediately before this Act comes into force a claim for compensation under an enactment repealed by this Act has been or could have been made, that claim may be made or continued or enforced in all respects as if this Act had not come into force.

(6) All proceedings in respect of breaches of or offences committed against an enactment repealed by this Act commenced before this Act came into force may be continued as if this Act had not come into force.

FIRST SCHEDULE

(Section 14(2)(c))

MATTERS TO BE DEALT WITH BY PHYSICAL PLANS

PART I

ROADS

Reservation of land for roads and establishment of public rights of way including public rights of way to and over beaches.

Closing or diversion of existing roads and public and private rights of way.

Construction of new roads and alteration of existing roads.

The line, width, level, construction, access to and egress from the general dimensions and character of roads, whether new or existing.

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 and shelters, the provision of artificial lighting and seats and the planting or protecting of grass, trees and shrubs on or adjoining any such road.

PART 2

BUILDINGS AND OTHER STRUCTURES

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 3

COMMUNITY PLANNING

1. Providing for the control of land by zoning or designating specific uses.
2. Regulating the layout of housing areas including density, spacing, grouping and orientation of houses in relation to roads, open spaces and other buildings.
3. 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.

PART 4

AMENITIES

1. Allocation of lands as open spaces whether public or private.
2. Allocation of land for burial grounds and crematoria.

Allocation of lands -

- (a) for communal parks;
- (b) for game and bird sanctuaries;
- (c) for the protection of marine life;
- (d) for national parks and environmental protected areas.

Preservation of buildings, caves, sites and objects of artistic, architectural, archaeological, historical, or cultural interest.

Preservation or protection of forests, woods, trees, shrubs, plants and flowers.

Protection of the coastal zone and designation of marine parks and special resources and special use areas.

Prohibiting, restricting or controlling, either generally or in particular places, the exhibition, either on the ground, or in any building or any temporary erection, on land, in water or in the air, of all or any particular forms of advertisement or other public notices.

Preventing, remedying or removing injury to amenities arising from the ruinous or neglected condition of any building or fence, or from 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.

Prohibiting, regulating and controlling the deposit or disposal of waste materials and refuse, the disposal of sewage and the pollution of rivers, lakes, ponds, gullies, beaches and the seashore.

PART 5

PUBLIC SERVICES

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

PART 6

TRANSPORT AND COMMUNICATIONS

1. Facilitating the establishment, extension or improvement of systems of transport by land, water or air.
2. Allocating sites for use in relation to transport 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 7

MISCELLANEOUS

1. Providing for and regulating the making of agreements for the purpose of a development plan by the Minister with a local authority or with owners and other persons, and by a local authority with such persons and by such persons with another.
2. Sub-division of land and in particular, but without limiting the foregoing -
 - (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 5 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 must 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) enabling the establishment of satellite towns and new towns;
- (c) effecting any exchanges of land or cancellation of existing subdivision plans that are necessary or convenient for the purposes aforesaid

SECOND SCHEDULE

(Section 25(2))

MATTERS FOR WHICH AN ENVIRONMENTAL IMPACT ASSESSMENT IS NORMALLY REQUIRED

- Hotels of more than 50 rooms
- Sub-divisions of more than 10 lots
- Residential development of more than 25 units
- Any industrial plant which in the opinion of the Authority is likely to cause significant adverse environmental impact
- Quarrying and other mining activities
- Marinas
- Land reclamation, dredging and filling of ponds
- Airports, ports and harbours
- Dams and reservoirs
- Hydro-electric projects and power plants
- Desalination plants
- Water purification plants
- Sanitary land fill operations, solid waste disposal sites, toxic waste disposal sites and other similar sites

14. Gas pipeline installations
15. Any development projects generating or potentially generating emissions, aqueous effluent, solid waste, noise, vibration or radioactive discharges
16. Any development involving the storage and use of hazardous materials
17. Any coastal zone development
18. Any development in wetlands, marine parks, national parks, conservation areas or environmental protection areas or other sensitive environmental areas.

Passed by the House of Representatives the 19th day of July, 2002.

KENNETH HOBSON
(Ag.) Clerk to the House of Representatives

Passed by the Senate the 30th day of July, 2002.

KENNETH HOBSON
(Ag.) Clerk to the Senate