

ANTIGUA AND BARBUDA
PHYSICAL PLANNING ACT, 2003

NO. 6 OF 2003

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[L.S.]

I Assent,

James B. Carlisle,
Governor-General.

24th March, 2003

ANTIGUA AND BARBUDA

No. 6 of 2003

AN ACT to make provision for the orderly and progressive development of land and to preserve and improve the amenities thereof; for the grant of permission to develop land and for other powers of control over the use of the land; for the regulation of the construction of buildings and other related matters; to confer additional powers in respect of the acquisition and development of land for planning; and for purposes connected with the matters aforesaid.

[2nd October, 2003]

ENACTED by the Parliament of Antigua and Barbuda as follows —

PART I

PRELIMINARY

1. (1) This Act may be cited as the Physical Planning Act, 2003. Short title.

(2) This Act or parts thereof shall come into operation on such date or dates as may be prescribed by the Minister by notice published in the *Gazette*.

Interpretation.

2. (1) In this Act, unless the context otherwise requires —

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

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock, (including any creature kept for the production of food, wool, skins or fur or for the purpose of its use in farming the land), the use of land as grazing land, market gardens and nursery grounds, but does not include the use of land for aquaculture;

“amenity order” means an order made under section 47;

“aquaculture” includes the breeding, rearing or keeping of fish, shellfish, or any other aquatic and marine flora and fauna, which involves the placing or assembly of any pen, cage, tank, pond or any other structure on or over any land for the purposes of aquaculture or mariculture;

“Authority” means the Development Control Authority established under the provisions of section 5;

“beach material” includes sand, shells, coral fragments, stones, gravel, boulders or other unconsolidated material, comprising a beach;

“builder” means a person engaged as a contractor or otherwise in the erection, construction, alteration, improvement maintenance or repair of buildings or works incidental to any of the foregoing,

“building” includes any permanent or temporary erection or structure in, on, over or under any land, whether affixed

to the land or not, and any part of a building so defined (but does not include plant or machinery comprised in a building);

“building operations” includes rebuilding operations, structural alterations of or additions to buildings and other operations normally undertaken by a person carrying on business as a builder;

“building or works” includes waste materials, refuse and other matters deposited on land, and references to the construction of building or works shall be construed accordingly;

“building regulations” means regulations made under section 58;

“clearing”, in relation to land, means the demolition of buildings or parts thereof, the removal of materials from land, the levelling or grading of the surface of the land, the removal of vegetation or top soil and the carrying out of such other operations in relation thereto as may be prescribed;

“Crown land” includes the waste or vacant land of the Crown within Antigua and Barbuda and all lands vested in the Crown, whether by forfeiture, escheat, purchase or exchange, and not dedicated to the public;

“completion certificate” means a certificate that building or engineering operations or the subdivision of lands have been carried out and completed in accordance with the terms and conditions of any development permit or building permit granted for the development;

“developer” means a person, who commences or carries out the development of land, or on whose behalf such development is commenced or carried out;

“development permit” means a notice granting permission for development issued under the provisions of Part IV;

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

“discontinuance notice” means a notice issued under section 44;

“dwelling house” means any building used or constructed or adapted to be used as a dwelling unit, but does not include a building containing one or more dwelling units, flats, apartments, condominiums or townhouses, or any flat, apartment, condominiums or townhouse contained in such a building;

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

“engineering operations” include the laying out, building and maintenance of roads, drains, runways and bridges, the preparation of land for carrying out of any development the clearing of land, the dredging of watercourses or channels, the filling of any cavity or excavation and the reclamation of land;

“enforcement notice” means a notice issued under section 34;

“environment” means all or any of —

- (a) the media of land, water, and air, including all layers of the atmosphere;
- (b) organic and inorganic matter and living organisms;
- (c) the interacting systems that include components referred to in paragraphs (a) and (b), within the territorial jurisdiction and control of the country;

“environmental impact assessment” means the process of collection, analysis, evaluation and review of information

on the likely effects of a proposed development on the environment and the means to overcome adverse effects which enables the Authority to determine whether development permission should be granted and with what conditions, the procedure for which is prescribed in regulations made under this Act;

“environmental impact statement” means the document or series of documents which contain the information on the likely effects of the proposed development on the environment and the means to overcome adverse effects required by section 23;

“environmental protection area” means any area declared to be an environmental protection area under section 54;

“foreshore” means land which lies between the mean low water mark and the mean high water mark of the tides;

“industrial development” means the development of land for the manufacture or partial manufacture of goods, articles or substances of any kind, or the assembly of manufactured goods or the turning into manufactured goods of articles which are partially manufactured or of substances in their natural state, or the repairing, finishing, cleaning, washing, packing or canning, adapting for sale or breaking up of any article;

“land” includes incorporeal as well as corporeal hereditaments of every tenure and description and any interest therein, land covered with water, the foreshore and the sea bed;

“lawful use” does not include use of any land which was commenced in contravention of the provisions of this Act or of town and country planning, land development and control, beach control or building legislation hitherto in force in Antigua and Barbuda;

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

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

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

“mining operations” means —

- (a) to carry out in relation to any mineral or beach material, any activity with a view to excavating, working, extracting, carrying away, treating or converting that mineral;
- (b) to search or explore for any mineral with a view to carrying out any activity mentioned in paragraph (a) of this definition and to carry out any work necessary for such search or exploration;
- (c) the deposit of waste or refuse materials in consequence of or incidental to any activity mentioned in paragraph (a) or (b) of this definition;

“Minister” means the Minister to whom the responsibility for physical planning and related matters has been assigned;

“mortgage” includes any charge or lien on any property for securing money or money’s worth;

“owner” in relation to any land means any person who is for the time being the registered proprietor or the lessee of the parcel of land under the Registered Land Act;

Cap. 374.

“parcel of land” means an area of land separately delineated under the Registered Land Act;

“permitted development” means development which is authorized under subsection (2) of section 18;

“plant” includes any terrestrial or marine flora;

“plant preservation order” means a plant preservation order made under section 48;

“prescribed” except in relation to matters expressly required or authorized by this Act to be prescribed in some other way, means prescribed by regulations made under this Act;

“purchase notice” means a purchase notice with respect to adverse decisions namely

- (a) refusal of a development permit in circumstances where no development permission is available with respect to that land; or
- (b) a revocation or modification notice; or
- (c) a discontinuance notice; or
- (d) a building preservation order; or
- (e) an environmental protection area order;

“regulations” means regulations made under any provision of this Act;

“resources” means any social, cultural, historical, technological, biological, physical or chemical elements and processes, renewable or non-renewable, tangible or intangible, of economic or aesthetic importance which compose the surroundings of mankind;

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

“sea bed” means the floor and subsoil underlying the sea between low water mark and so far out to sea as is deemed by international law to be within the territorial sovereignty of Antigua and Barbuda;

“sub-division” means the division of a parcel of land into two or more parcels, whether such division is by transfer, lease, vesting order or any other instrument, for the purpose of sale, gift, succession, partition, reparcelation, mortgage, letting, the registration of title by adverse possession or for any other purpose;

“Town and Country Planner” means the person appointed as such under section 6;

“Tribunal” means the Appeals Tribunal established by section 68;

“unauthorized development” means any development (other than permitted development) for which a development permit has not been granted, or development which is not in accordance with the conditions or limitations subject to which a development permit was granted;

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

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

(2) In Part IV of this Act, the expression “development of land” means the carrying out of building, engineering, mining or other operations in, on, over or under any land, the making of any material change in the use of any building or land or the sub-division of land, provided that the following shall be deemed to constitute development —

- (a) work for the maintenance or other alteration of any building, if the work affects only the interior thereof and does not materially affect the external appearance of the building;
- (b) work carried out by the Government for the maintenance or improvement of a road;
- (c) work carried out with the approval of the Government or by any statutory agency for the purpose of inspecting, repairing or renewing any sewers, water mains, electric mains, cables or other apparatus, in-

cluding the excavation of any road land for the purpose;

- (d) the use of any building or other land within the curtilage of a dwelling house for purposes incidental to the enjoyment of that dwelling house as such;
- (e) the use of land for the purposes of agriculture or forestry, but not including any building or engineering activity thereon;
- (f) the erection of gates, fences, walls or other means of enclosure, not being adjacent to a road or the sea, not exceeding six feet three inches in height and not constructed of asbestos, plastic, fibre glass or sheet metal;
- (g) the enlargement, improvement or other alteration of a dwelling house, provide that —
 - (i) *the square footage of the enlargement does not exceed one tenth of the square footage ground floor of the house at the date of the development or of the house at the commencement of this Act, whichever is the larger;*
 - (ii) the enlargement is single story;
 - (iii) the enlargement is an integral part of the existing house;
 - (iv) the enlargement complies with the requirements of any planning and building regulations for the time being in force; and
 - (v) written notice of intention to carry out such work is given to the Development Control Authority;

(3) The use for the display of an advertisement of any land or of the external part of a building, which is not ordinarily used for that purpose, shall be deemed to involve a material change in the use of that land or part of the building.

(4) For the avoidance of doubt it is hereby declared that —

- (a) the use as two or more separate dwelling units, of any building previously used as one dwelling house involves a material change in the use of that building and of each part thereof so used;
- (b) the deposit of any waste material on land involves a material change in the use of the land, notwithstanding that the deposit is on a site which has been previously so used, if either the superficial area thereof or the height of the deposit is thereby extended or exceeds the level of any similar deposit on adjacent land;
- (c) sub-division constitutes development whether or not the use for which the sub-divided land is intended constitutes development.

Objects and purposes.

3. The objects and purposes of this Act are to —

- (a) facilitate a continuous improvement in the quality of life of every person in Antigua and Barbuda;
- (b) provide for the orderly, efficient and equitable allocation and development of the resources of Antigua and Barbuda, taking account of all relevant social economic and environmental factors, so as to ensure that sustainable use is made of land in the interests of all the people of Antigua and Barbuda;
- (c) maintain and improve the quality of the physical environment within which human settlements are situated in Antigua and Barbuda;
- (d) provide for the orderly sub-division of land and the provision of services in relation thereto;
- (e) secure the health, safety, welfare and convenience of persons 'in or about buildings and of others who may be affected by buildings or matters connected with buildings;
- (f) protect and conserve the cultural heritage of Antigua and Barbuda as it finds expression in the natural and the built environment;

(g) to foster awareness that all persons and organisations owning, occupying and developing land have a duty to use that land with due regard for the wider interests, both present and future, of society.

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

PART II

ADMINISTRATION

4. (1) The Minister is responsible for securing the objects and purposes set out in section 3 and in the exercise of the powers conferred on him may do all things necessary for the purpose of carrying out his or her responsibilities under this Act.

Duties of the
Minister

(2) In addition to the several duties imposed on him by this Act, the Minister is responsible for the framing and implementation of comprehensive policies with respect to the use and development of all land in Antigua and Barbuda in accordance with a development plan prepared in accordance with the provisions of Part III and shall in the framing and implementation of such policies have regard to the need to secure consistency.

(3) In exercising his or her functions, the Minister shall be guided by the principle that the provisions of this Act shall be applied uniformly, fairly and equally to all persons.

(4) Nothing in this section shall be construed as imposing upon the Minister either directly or indirectly any form of duty or liability enforceable in proceedings before any Court.

5. (1) There is hereby established a body corporate, to be known as the Development Control Authority, to carry out such functions as are by this Act conferred upon it.

Development
Control
Authority

(2) The constitution, procedures and finances of the Authority shall be in accordance with the First Schedule.

First Schedule.

(3) The Authority shall —

- (a) advance the purposes of this Act as set out in section 3;
- (b) regulate development by the means provided by this Act, having regard to the need to secure consistency and conformity with the development plan, if any;
- (c) regulate the design and construction of buildings and the provision of services, fittings, and equipment in or in connection with buildings;
- (d) do all other things necessary for carrying out the purposes and provisions of this Act as may be authorized by this Act.

(4) The Authority shall remain at all times responsible for the proper performance of its functions under this section, but subject to subsection (1) may, for the purpose of such performance, consult with or obtain advice from other authorities, persons or bodies of persons as it thinks fit.

(5) Without restricting the generality of subsection (4), the Authority may delegate any of its duties to the Town and Country Planner.

(6) The Authority shall be responsible for the implementation of the policies framed by the Minister under and the Authority shall act in accordance with directions of a general character which may be given by the Minister as to the policy to be followed in the exercise of its functions.

Town and Country Planner, Secretary, Officers and employees of the Authority.

6. (1) The Authority may employ at such remuneration and on such terms and conditions as it thinks fit (including the payment of pensions, gratuities or other like benefits by reference to the service of its officers and employees) a Town and Country Planner, a Secretary and such other officers and employees as the Authority considers necessary for the purposes of carrying out the functions of the Authority:

Provided that no appointment shall be made to the office of Town and Country Planner without the prior approval of the Minister.

(2) The Town and Country Planner shall be the Chief Executive Officer of the Authority and shall exercise the powers and perform the duties specified in subsections (3), (4), (5) and (6).

(3) The Town and Country Planner shall be responsible to the Authority for the administration and operation of the system of planning for which this Act provides.

(4) Without restricting the generality of subsection (3), the Town and Country Planner shall —

- (a) institute, complete, maintain and keep under review a study of the matters pertinent to planning the use and development of land in Antigua and Barbuda;
- (b) prepare or cause to be prepared development plans in accordance with Part III of this Act;
- (c) prepare and submit to the Authority and the Minister subject reports on matters which the Authority or the Minister may from time to time consider necessary; and
- (d) do all other things necessary for carrying out the purposes and provisions of this Act as are authorized by this Act.

(5) The Town and Country Planner shall sign and issue all development permits, refusals of development permission, enforcement notices and other documents authorized by the Authority to be issued under the provisions of this Act.

(6) The Town and Country Planner has the powers conferred upon him by this Act and the duties that he is required by this Act or by the direction of the Minister or the Authority to perform.

7. (1) Functions assigned to the Town and Country Planner by or under this Act, other than those mentioned in subsection (5) of section 6, may be exercised by any planning officer authorized by the Town and Country Planner in writing, either generally or specially, in that behalf.

Exercise of
functions of
Town and
Country Planner.

(2) Any person exercising a function assigned to a planning officer under this Act shall be deemed, for the purpose of the exercise of that function, to be the proper officer for the exercise

of that function, if authorized in writing by the Town and Country Planner or the Authority.

Limitation of
Personal
Liability.

8. The Minister, members of the Authority, the Town and Country Planner or other public officer shall not be personally 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 conferred by this Act.

PART III

DEVELOPMENT PLANS

Proposal for
Development
Plan.

9. (1) The Town and Country Planner may, and if so required by the Authority or the Minister shall, submit to the Minister proposals for the preparation of a development plan.

(2) A proposal for the preparation of a development plan shall include —

- (a) a reasoned statement of the need for the plan;
- (b) the main headings of the proposed contents of the plan;
- (c) a suggested timetable for the preparation of the plan;
- (d) proposals for obtaining representations from persons likely to be affected by or likely to wish to submit representations and views on the proposed plan during the course of its preparation;
- (e) proposals for the review of the plan by sectoral agencies and private sector representatives; and
- (f) such other matters as are required by the Minister or are considered by the Town and Country Planner to be necessary for a decision to be made on the proposal.

(3) Where the Minister rejects a proposal submitted under this section, he or she may require the Town and Country Planner to submit a fresh or modified proposal for the same plan or a new proposal for a different plan.

10. (1) The Town and Country Planner may prepare or cause to be prepared and thereafter keep under review a development plan for Antigua and Barbuda as a whole or for any specified part of Antigua and Barbuda;

Scope and preparation of development plans.

Provided that no development plan shall be prepared by the Town and Country Planner for an area designated under the St. John's Development Corporation Act, except for and on behalf of the St. John's Development Corporation, under and in accordance with the St. John's Development Corporation Act.

(2) A development plan shall set out with such degree of particularity as may be appropriate to the different parts of Antigua and Barbuda and to the nature of the development plan —

- (a) a statement of the principal aims and objectives with respect to the development and other use of land in the area;
- (b) a report on the existing conditions of the area, including —
 - (i) the principal physical, social, economic and environmental characteristics of the area including the principal purposes for which land is used;
 - (ii) the size, composition and distribution of population of the area;
 - (iii) the communications, transport systems and traffic in the area;
 - (iv) the public services and the physical and social infrastructure provided in the area;
 - (v) any other matters which may affect the development and other use of land in the area or which the Minister may direct;
- (c) a statement of the policies, proposals, and programmes for the future development and use of land in the area including principles for regulating

the use and development of land and measures for the maintenance and improvement of the environment;

- (d) a reasoned justification of the policies and proposals for the future development and use of land in the area having regard to —
 - (i) the report of the existing conditions of the area under paragraph (b) of subsection (2);
 - (ii) an examination of the likely environmental effects of the proposals;
 - (iii) any specific policies of the Government which may affect the pattern of development in the area;
 - (iv) the relationship between the proposals in the plan and other previously approved development plans which may affect the area;
 - (v) the financial and other resources which are likely to be available for carrying out the proposals of the plan; and
- (e) a schedule setting out the stages by which the proposals of the plan may be implemented.

(3) The development plan shall include such maps, plans, drawings, diagrams and other graphic representations as the Town and Country Planner considers necessary to illustrate and explain the plan.

(4) A development plan may —

- (a) define the sites of proposed roads, public and other buildings and works, or the allocation of land for agricultural, residential, industrial or other purposes of any class, and the conditions under which such development should be carried out;
- (b) designate any area as being an area which, for reasons of flooding, erosion, subsidence, instability,

aircraft safety, or other hazards, conservation or other environmental considerations, should not be developed;

- (c) make proposals for the preservation of buildings, sites and other features for architectural, cultural or historical reasons;
- (d) provide for any of the matters set out in the Second Schedule as the Town and Country Planner considers appropriate to the nature and scope of the proposed plan;
- (e) designate as a comprehensive planning area any area which in the opinion of the Town and Country Planner needs to be planned as a whole for one or more of the purposes of development, redevelopment, improvement or conservation.

Second Schedule.

(5) As soon as practicable after the designation of land as a comprehensive planning area, the Town and Country Planner shall prepare a detailed plan for the relevant area showing the manner in which it is to be developed.

(6) A development plan shall not designate any land as a comprehensive planning area if it appears to the Town and Country Planner that the acquisition is not likely to take place within seven years from the date on which the plan is approved.

(7) Where any land is designated by a development plan as a comprehensive planning area, then if at the expiration of seven years from the date on which the plan, or the amendment of the plan, by virtue of which the land was first so designated came into operation, any of that land has not been acquired by the Crown, any owner of an interest in the land may serve on the Attorney General a notice requiring the interest of the owner in the land to be acquired and if, within six months after the service of that notice the interest of the owner in the land has not been so acquired, the development plan shall have effect, after the expiration of the six months, as if the land in which the said interest subsists was not subject to compulsory purchase.

11. (1) In any case where a draft development plan is wholly or in part for the development of land in an area within the jurisdiction of the Barbuda Council, the Town and Country Plan-

Consideration of draft development plan.

ner shall, before completing the draft development plan, consult with the Barbuda Council, and shall, before submitting the draft development plan to the Minister for approval, furnish a copy of the draft development plan to the Barbuda Council, for their consideration and representations.

(2) When the Town and Country Planner has prepared a draft development plan he shall send a copy to the Minister and to members of the House of Representatives and shall deposit a copy at the offices of the Development Control Authority and at such other place or places as the Town and Country Planner considers to be most effective for bringing it to the notice of persons residing, working owning property in the area to which the draft development plan proposals relates, or those who are likely to be affected by the proposals in the draft development plan:

Provided always that where the draft development plan is wholly or in part for the development of land in Barbuda a copy of the development plan shall deposited at the offices of the Barbuda Council.

(3) The Town and Country Planner shall give notice in the *Gazette* of the depositing of a draft development plan, and of the places where it may be examined, and shall give such other publicity to and written or oral explanation of the draft development plan as, in the Town and Country Planner's opinion, is best calculated to inform all persons affected or likely to be affected by the proposals in the draft development plan, and all persons of the right to make representations with regard to the proposals in the draft development plan.

(4) Prior to submission of the development plan to the Minister, the Town and Country Planner shall hold one or more public meetings on the draft development plan or on any part thereof at such times and places as the Minister may direct:

Provided always that where the draft development plan is wholly or in part for the development of land in Barbuda one or more public meetings on the development plan shall be held in Barbuda at such times and places as are appointed after consultation with the Barbuda Council.

(5) The Town and Country Planner shall publish in the *Gazette* and, if it appears to be fit, in any other news media, notice

of the time and place at which any such public meeting is to be held, at least seven days prior to the meeting.

(6) Any person may, at a public meeting held pursuant to subsection (4), make oral representations on the draft development plan to the Town and Country Planner and a record of the proceedings of any such public meeting shall be kept by the Secretary of the Authority, a copy of which shall be furnished to the Minister as soon as is practicable thereafter.

(7) Any person may, at within eight weeks of the publication in the *Gazette* of the notice referred to in subsection (2), make written representations on the draft development plan to the Town and Country Planner.

(8) When the Town and Country Planner submits a draft development plan for the approval of the Minister, it shall be accompanied by a statement of the steps taken by the Town and Country Planner to comply with the provisions of this section and the particulars of the consultations held with other persons with respect to the proposals in the draft development plan.

(9) After the expiration of the period prescribed for making representations on a draft development plan, the Town and Country Planner shall consider the draft development plan and the written representations and comments made, and shall forward the same together with his or her own recommendations and comments to the Minister.

12. (1) The Minister, after considering a draft development plan which has been submitted to him or her under section 11, and all comments, representations and recommendations made thereon, may accept the draft plan with or without modifications, or may reject require further work on, or revision of, or may require further consultations on the draft plan in whole or in part.

Approval of
Development
Plan.

(2) Where, before a draft plan is accepted, the Minister determines that further modifications to, further work on or revision of or consultations on, the draft plan are required, the Minister may require the Town and Country Planner to undertake such further work, revision or consultation as may be necessary and to give such publicity to the matter as will enable persons likely to be affected or interested to make representations or comments on the draft plan.

(3) Unless the Minister otherwise directs, the provisions of section 11 shall apply to any modifications, work or revision undertaken by the Town and Country Planner under this section and to the re-submission of the draft plan or any modification thereof.

(4) Where a draft development plan is submitted to the Minister under section 11 and is accepted by the Minister with or without modifications, the Minister shall submit the draft development plan for the approval of Parliament.

Rejection of
Development
Plan.

13. Where a development plan is rejected by Parliament under subsection (4) of section 12 the Town and Country Planner shall prepare a fresh plan in accordance with section 10.

Deposit of
Approved Plan.

14. (1) When a development plan has been approved by Parliament a copy of it shall be deposited at the offices of the Development Control Authority, and the substance of the plan shall be publicized in the area or areas to which it applies, in such manner as the Minister may direct.

(2) Notice of the approval of a development plan and the date on which the plan shall come into effect shall be published in the *Gazette*.

(3) Copies of a plan shall be available for inspection and purchase, at all reasonable times at the offices of the Development Control Authority, at such price as may be prescribed.

Modification or
revocation of a
plan

15. (1) The Minister may at any time require the Town and Country Planner to review or prepare proposals for modification or revocation of any plan, or any part thereof.

(2) Without prejudice to subsection (1), it shall be the duty of the Town and Country Planner to keep under review the operation of any plan in the light of changing circumstances in Antigua and Barbuda and in the area to which it applies, and the Town and Country Planner may prepare proposals for the modification or revocation of any plan as he or she sees fit and shall submit the same to the Minister.

(3) The provisions of this Act with respect to the participation in, preparation, consideration and approval of a development plan shall apply *mutatis mutandis* to the participation in,

preparation, consideration and approval of the modification or revocation of a plan.

16. (1) When a development plan has been approved —

Legal status of development plans.

- (a) it shall be the principal reason for the compulsory acquisition of land designated in that approved development plan as a comprehensive planning area;
- (b) it shall be the duty of all public officers to have due regard to, and so far as is practicable, be guided by the plan in formulating and preparing any project of public investment and development in Antigua and Barbuda;
- (c) the Authority shall, in considering any application for development permission, give principal consideration to and be guided by the plan.

(2) When a plan has been prepared but is not yet approved, paragraphs (b) and (c) of subsection (1) of this section shall apply as if the plan had been approved.

(3) An approved development plan remains in effect until it is revoked by the Minister with the approval of Parliament, by notice published in the *Gazette*.

PART IV

CONTROL OF DEVELOPMENT OF LAND

17. Notwithstanding the provisions of any other law to the contrary, no person shall commence or carry out any development of land, except in accordance with a development permit granted under this Act.

Permission required to develop land.

18. (1) Provision may be made by a development order granting permission to any class or classes of development specified in the order, either unconditionally or subject to such conditions or limitations as may be specified in the order, without the requirement for the making of an application for a development permit, and any such class of development is hereinafter referred to as permitted development.

Development Orders.

(2) Provision may be made by a development order for regulating the manner in which applications for development permits are to be made to and dealt with by the Town and Country Planner and the Authority.

(3) Every development order shall be subject to the negative resolution of Parliament.

Applications for development permits.

19. (1) An application for a development permit shall include such information as may be required by the regulations, or by directions given thereunder by the Town and Country Planner, and be —

- (a) made in such manner as may be prescribed by the regulations made under section 81;
- (b) accompanied by proof of payment of any application-fee prescribed by a notice given under this Act; and
- (c) submitted to the Authority through the Town and Country Planner.

(2) The Authority may grant approval on a preliminary application for development, expressed to be outline permission, the effect of which shall be to consent in principle to the development, subject to the conditions and limitations specified therein and to the subsequent approval of the Authority with regard to detailed plans and particulars of the development, but not to permit the carrying out of development until a development permit has been granted.

(3) Where the Authority is of the opinion that an application for outline permission ought not to be considered separately from the detailed information required under subsection (1), it shall within one month of the receipt of the application notify the applicant that it is unable to entertain the application for outline permission and shall invite the applicant to submit an application for a development permit.

Requirement for further information.

20. (1) If so required by the Town and Country Planner after consultations with the Chief Environment Officer by written notice, an applicant for development permission shall —

- (a) furnish the Town and Country Planner, with such reasonable time as may be prescribed in the notice, with such further information as may be specified in the notice as the Town and Country Planner considers is necessary to enable the Authority to determine the application;
- (b) cause an environmental impact statement or feasibility study to be prepared of the proposed development and submitted to the Town and Country Planner.

(2) Where such further information required under subsections (1) (a) and (b) is furnished, the application shall be treated as having been made on the date when the information was received and the 90 day period provided for the determination of applications in section 26 shall not commence until the date of receipt of the further information.

(3) Where an applicant does not furnish the Town and Country Planner with the further information required under subsections (1) (a) and (b) within the period prescribed in the notice or such longer period allowed by the Town and Country Planner, the Authority may decline to determine the application and may return the application to the applicant with a notice to that effect, or the Authority may refuse to grant development permission, as it thinks fit.

21. (1) Every application for a development permit shall be accompanied by a statement signed by the applicant, certifying that the applicant has notified the owner of the land to which the application relates of the applicants intention to make the application.

Notification of
Landowner.

(2) Where, within two weeks of the date of the application, the owner of the land notifies the Town and Country Planner that he or she objects to the application, the Town and Country Planner shall cancel the application and return it to the applicant.

22. (1) Where the Minister has by order designated certain classes of development as likely to derogate from the amenities of the public, or of adjacent or nearby properties, and an application is made for permission to carry out development falling

Publicity for
Applications.

within a designated class, the Town and Country Planner shall by written notice require the applicant to —

- (a) give details of the application to such persons or authorities as may be specified in the notice; and
- (b) publish details of the application at such times, in such places and in such manner as may be specified in the notice.

(2) Without restricting the generality of subsection (1), the notices referred to in paragraphs (a) and (b) of that subsection shall be served in respect of any application —

- (a) for permission to deposit, store or otherwise deal with toxic or hazardous waste;
- (b) for permission to develop any manufacturing process which will involve either directly or as waste, the production of toxic or other hazardous substances;
- (c) for permission to construct buildings or for the use of land for the purposes of animal husbandry, plucking of poultry, or processing of fish, or as a slaughterhouse;
- (d) for permission to construct buildings or for the use of land for the purposes of a casino, gambling hall, recreation club, liquor shop, bingo hall, music hall, dance hall, theatre, cinema or sports hall;
- (e) for permission to develop land in an environmental protection area; and
- (f) for permission to carry out any development in connection with which an environmental impact assessment is required.

(3) The Town and Country Planner may, and in respect of an application referred to in subsection (2), publish a notice and affix a copy of the said notice on the land to which the application relates —

- (a) stating that an application to develop land has been received and will be determined on a date specified in the notice; and
- (b) inviting comments and representations either in writing or orally on such application.

(4) In determining an application to which this section relates, the Authority shall take into account any report, representation or comment submitted in writing or otherwise in relation to subsection (1).

23. (1) Subject to the provisions of this section, an environmental impact assessment shall be carried out in respect of an application for a development permit for any development set out in the Third Schedule.

Environmental
Impact
Assessment.
Third Schedule.

(2) Notwithstanding the provisions of subsection (1) the Authority may, after consultation with the Chief Environment Officer, require an environmental impact assessment in respect of an application for permission for any development (other than development set out in the Third Schedule) where the proposed development would be likely to have significant effects on the environment having regard to —

- (a) the nature of the proposed development;
- (b) the geographical scale and location of the proposed development;
- (c) the extent of the changes to the environment likely to be caused by the proposed development;
- (d) the degree of scientific certainty about the nature of the proposed development and its likely impact on the environment;
- (e) any development plan for the area;
- (f) any other matter as may be prescribed in the regulations.

(3) A person who is minded to apply for a development permit may ask the Authority to state in writing whether in its opin-

ion an environmental impact assessment would be required in connection with the proposed development under subsection (2).

(4) Where the Authority determines that an environmental impact assessment is required, the Authority shall, within 60 days of receipt of an application for a development permit, issue a written notice notifying the applicant of the determination that an environmental impact assessment is required and setting out the terms of reference for the preparation of an environmental impact statement on the proposed development and the period within which the environmental impact statement shall be submitted to the Authority.

(5) Where the Authority issues a notice under subsection (4) that an environmental impact assessment is required, the applicant shall submit to the Authority an environmental impact assessment on the proposed development in such form and containing such information as may be prescribed in the regulations.

(6) Where the Authority issues a notice under subsection (4) that an environmental impact assessment is required, the Authority and any other public agency or department, if requested by the applicant, shall enter into consultation with the applicant to determine whether the agency or department has in its possession any information which the applicant or they consider relevant to the preparation of the environmental impact statement and, if they have, the agency or department shall make any such information available to the applicant,~ provided that the agency or department shall not be required to disclose confidential information.

(7) The Authority shall not grant a development permit pursuant to an application to which this section applies unless they have first taken the environmental impact assessment into account.

(8) Where the Authority issues a notice under subsection (4) notifying the applicant that an environmental impact assessment is required, it shall 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 shall not grant such licence, permit, approval, consent or other document of authorization as aforesaid unless it has been notified by the Authority that the notice has been complied with and that the Authority has issued a development permit in respect of the proposed development.

(9) This Act does not exempt any development from the requirements imposed upon any such development by any other written law or regulation.

(10) The Minister, on the advice of the Authority, may cause a register of persons with the qualifications, skills, knowledge and experience as may be prescribed by regulations made under this Act to carry out environmental impact assessments to be compiled, and a person who is on the register shall be deemed to be approved by the Minister to prepare environmental impact assessments for Antigua and Barbuda.

24. (1) Where an application is made for the development of any land within the jurisdiction of the Barbuda Council, the St. John's Development Corporation or the Port Authority or the National Parks, no development permit shall be issued by the Authority unless there has been prior consultation between the Authority and the Barbuda Council, the St. John's Development Corporation or the Port Authority or the National Parks, as the case may be.

Consultation on Applications.

(2) Any governmental agency or statutory corporation or authority (including but not limited to the Barbuda Council, the St. John's Development Corporation, the Port Authority and the National Parks Authority) or any public officer who receives a request in writing from the Town and Country Planner for comments on an application for a development permit, shall reply to that request within 21 days, or other such period as may be agreed between the Town and Country Planner and that officer or agency, corporation or authority.

25. (1) In considering an application for a development permit, the Authority shall give principal consideration to —

Material considerations.

- (a) an approved development plan for the whole country, if any; and
- (b) an approved development plan applicable to the land to which the application relates, if any.

(2) In addition to the considerations referred to in subsection (1) the Authority shall take into account the following matters as appear to be relevant, or as the Town and Country Planner may advise, in order to make a proper decision on the application, namely as follows —

- (a) any representations made by a person with regard to the application or the probable effect of the proposed development;
- (b) an opinion expressed by an authority consulted under section 24;
- (c) statement of policy issued by the Minister;
- (d) information, study or report provided by the applicant in response to a notice served under section 20;
- (e) the likely impact of the proposed development on the natural or built environment;
- (f) the likely impact of the proposed development on public health and safety;
- (g) the social and economic costs and benefits likely to accrue to the community as a result of the proposed development;
- (h) an application for commercial or industrial development, or for sub-division of land —
 - (i) any policies on the use of land for agricultural purposes which have been issued by the Minister responsible for agriculture;
 - (ii) the suitability of the land for the purposes intended;
 - (iii) the quality and economy of the proposed development and its design;
 - (iv) the proposals made in the application for the means of access to, from and within the de-

velopment, and for the provision of utility services to the development;

(v) the availability of water, electricity and waste disposal services;

(vi) traffic considerations;

(i) the financial and other resources which are, or which will be, available to the applicant for the development permission;

(j) the area of land required for the proposed development;

(k) such other matters as the Town and Country Planner considers to be relevant to the determination of the particular application.

26. (1) Where an application is made for permission to develop land in accordance with this Act and any Regulations made hereunder, the Authority may —

Determination of applications.

(a) grant a development permit unconditionally; or

(b) grant a development permit subject to such conditions as it thinks fit; or

(c) refuse permission.

(2) Within 90 days of receipt of the application for a development permit, the Town and Country Planner shall notify the applicant in writing of the determination of the application, providing in the case of paragraph (b) or (c) of subsection (1) —

(a) a full and clear statement of the reasons for the determination;

(b) information on the opportunities available to the applicant for appeal against the determination.

(3) Where no decision has been made within 90 days of receipt of the application, the Town and Country Planner shall notify the applicant of the progress made on the application and

the extended date by which the decision is likely to be made, being no later than 30 days from the date of notification.

(4) Where no decision is made within 90 days of receipt of the application and no notification of an extended date has been issued to the applicant that application shall be deemed to have been refused for the purposes of paragraph (a) of subsection (2) of section 72.

(5) For the avoidance of doubt, it is hereby declared that a development permit granted after expiration of the 90 day period referred to in subsection (4) is effective as a development permit for all purposes.

Conditional
development
permits.

27. (1) Without prejudice to the generality of paragraph (b) of subsection (1) of section 26, the Authority may impose conditions on a development permit which relate to any matter referred to in subsection (2) of section 25 or which arrange for —

- (a) regulating the manner in which the development authorized by the permission is to be carried out including —
 - (i) the timing and phasing of the implementation of the development;
 - (ii) the dimensions, design, structure, or external appearance of any buildings or the number or disposition of any buildings on the land which is the subject of the development permit;
 - (iii) the location, design or materials of construction of any means of access from the development to a highway;
 - (iv) the disposal of sewage, effluent or trade waste from the development;
 - (v) the supply of water to the development;
 - (vi) the landscaping of the development;
 - (vii) the presentation of trees, vegetation or other natural features of the land where the development is to take place;

- (viii) *the preservation of any buildings or sites of importance to the cultural heritage of the country;*
 - (ix) *the reservation of any part of the land on which the development is to take place for roads, open space or other public or communal purposes reasonably incidental to the development;*
 - (x) *the nature of the materials to be used in any building or engineering operations in the development;*
 - (xi) *the routing of any vehicles or vessels to be used for the purpose of or in connection with the development;*
 - (xii) *the removal of materials or waste from such land or adjacent land used for the purpose and the carrying out of any works required for the reinstatement restoration, or preservation of the land and the environment when the development is completed;*
- (b) *regulating the development or use of any land under the ownership or control of the applicant (whether or not it is land in respect of which the application was made, provided that where such land is not included in land which is the subject of the development permit it shall be adjacent to the land which is the subject of the development permit) including the discontinuance of any existing uses of the land or requiring the carrying out of works including the demolition of any buildings on such land or the removal of plant and machinery from the land so far as appears to the Authority expedient for the purposes of or in connection with the development authorized by the permit;*
- (c) *requiring the removal of any buildings or works authorized by the permit, or the discontinuance of any use of land so authorized at the expiration of a specified period, and the carrying out of any works re-*

quired for the reinstatement of the land at the expiration of that period;

- (d)* regulating the use which may be made of any building or use of land authorized by the development permit notwithstanding an order made under subsection (2) of section 18;
- (e)* controlling or prohibiting the display on the land comprising the development of any advertisement including the size, shape, colour or location of any such advertisement;
- (f)* requiring continuous environmental monitoring of the development authorized by the development permit;
- (g)* regulating the hours of work during which the development authorized by the permit may operate;
- (h)* the retention of any existing development or use of land to which the application relates, for a specified period;
- (i)* the payment of money or money's worth or the conveyance of land to the Authority in lieu of works required under the development permit;
- (j)* the entering into a performance bond with the Authority to guarantee the implementation of any of the conditions subject to which the grant of the development permit is made.

(2) A condition may be imposed under this section requiring the developer to carry out any works or other development on land (including roads) in the ownership or under the control of the Crown, even if the effect of the imposition of such a condition would be to require the developer to carry out works or development at his or her own cost for the public benefit.

(3) A development permit granted subject to any such condition as is referred to in paragraph (c) of subsection (1) is in this Act referred to as "a temporary development permit."

(4) No claim to compensation shall lie against the Government, the Minister, the Authority, the Town and Country Planner or any other public officer in connection with or arising out of the grant by the Authority of development permission subject to conditions.

28. (1) The Authority may, on the advice of the Town and Country Planner, and with the consent of the Minister, and the consent of any other government agency who may be a party to the agreement, enter into an agreement containing such terms and conditions as it thinks fit with the applicant for a development permit or with any other person interested in that land for the purpose of regulating the development of land proposed by the application.

Development
Agreements.

(2) Without restricting the generality of subsection (1), terms and conditions may be included in an agreement —

- (a) covering any matter in respect of which conditions may be imposed on a development permit;
- (b) providing for contribution (whether of works, money or land) by the applicant towards the provision of services, facilities (including their future maintenance) and amenities in the area in which the proposed development is to be carried out;
- (c) for the provision of security by the applicant for ensuring due compliance with the agreement.

(3) An agreement made under this section with any person interested in land may be enforced by the Authority against persons deriving title under that person in respect of that land as if the Authority were possessed of adjacent land and as if the agreement had been expressed to be made for the benefit of such land.

29. (1) Where the Authority requires, in a condition imposed on a development permit to develop land under section 27 or as a term of an agreement made under section 28 that an applicant or, as the case may be, a person with whom it makes an agreement provide a bond as security for the performance of any condition subject to which a development permit was granted or for the performance of the agreement, the Authority shall re-

Performance
Bonds.

quire a charge on the land to which the permit or agreement relates as appears to it to be expedient and proper to ensure that the bond may be enforced.

(2) The Authority may enforce a bond entered into by an applicant for permission to develop land under section 27, or by a person with whom it has made an agreement under section 28, by all appropriate legal and equitable remedies.

Lapse of
development
permit.

30. (1) Outline permission shall be granted subject to a condition that if no development permit covering the same development has been applied for within one year of the grant of outline permission, or such longer period as may be specified in the grant of outline permission or as may be authorized by the Authority in any particular case, that outline permission shall lapse and cease to have any force or effect.

(2) Where in accordance with the provisions of this section an outline permission has expired, an application for a development permit in respect of that expired outline permission may be refused without any liability to pay compensation under section 64.

(3) A development permit shall be granted subject to a condition that it shall lapse and cease to have effect if the development to which it relates has not been completed within three years of the grant of the development permit, or such longer period as may be authorized by the Authority in any particular case.

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

(5) The Authority may serve written notice on a person who has commenced, but has not completed, within the time prescribed therefor, the development for which permission has been granted, requiring that person to complete the development within the time specified in such notice, and stating that if the development is not completed within that period the development permit will cease to have effect after the expiration of a further period specified in the notice.

(6) Upon expiration of the further period specified in a notice served under subsection (5) the development permit shall cease to be valid or to have any effect and any further development or work carried out with respect to that development permit shall be a breach of planning control.

31. (1) Without prejudice to the provisions of this Part as to the lapse or modification or revocation of any development permit, such permit shall, except in so far as the permit otherwise provides, ensure for the benefit of the land concerned and of all persons for the time being entitled to an interest in the land.

Supplementary provisions as to development permits.

(2) Where a temporary development permit is granted in accordance with paragraph (c) of subsection (1) of section 27, at the expiration of the period specified therein, the use of the land for the purpose for which it was used before the grant of the temporary development permit may be resumed without express grant of a development permit only if that use was a lawful use.

(3) Where a development permit is granted for the erection of a building, the permit may specify the purposes for which the building may be used.

(4) A development permit may include permission, with or without conditions, to retain on land buildings or works constructed or carried out thereon before the date of the application or for the continuance of any use of land instituted before that date (whether without a permit granted under this part or in accordance with a temporary development permit).

(5) A condition in a permit granted under subsection (4) may require the applicant to pay a sum of money to the Authority in respect of the buildings or works constructed or carried out before the date of the application or in respect of any use of land instituted before that date.

32. (1) The Town and Country Planner, acting on behalf of the Authority, may approve a minor variation to a development permit which in his or her opinion does not alter or affect the terms and conditions of the development permit in any material respect and in such event the Town and Country Planner shall inform the Authority of the action which has been taken in that particular case.

Minor variation of development permit.

(2) Where the Town and Country Planner is requested to approve a variation under subsection (1) but is of the opinion that the variation proposed is not a minor one the Town and Country Planner shall, in writing, inform the applicant that a request must be submitted to the Authority for approval of the variation.

Modification or revocation of development permit.

33. (1) Subject to the provisions of this section, if it appears to the Authority, after consideration of such advice as may be given by the Town and Country Planner that it is desirable that any grant of development permission ought to be modified or revoked the Authority may, by written notice to the person entitled to the benefit of the permit, revoke or modify the development permit to such extent as it considers desirable.

(2) The power conferred on the Authority by this section may be exercised —

(a) where the development permit relates to the carrying out of building or other operations, at any time before those operations have been completed;

(b) where the development permit relates only to the making of a material change in the use of building or other land, at any time before the change has taken place.

(3) The modification or revocation of a development permit for the carrying out of building or other operations shall not affect so much of the operations as has been previously carried out.

(4) A notice of the modification or revocation of a development permit under this section shall include —

(a) a statement of the reasons for the modification or revocation;

(b) such directions as the Authority considers necessary for the bringing to an end any development to which the notice relates;

(c) information as to any claim for compensation that may arise in consequence of the modification or re-

vocation, and the procedure for making any claim for compensation;

(d) information as to the right of appeal under Part IX of this Act; and

(e) such other matters as may be prescribed.

(5) Upon the service of a notice under subsection (1), to the extent to which the modification or revocation so requires, the development permit concerned shall cease to be valid or to have effect, and any further development or work carried out contrary to such notice shall be a breach of planning control.

(6) Notwithstanding subsection (5), the Authority, after considering any representations made in respect of such a notice, may at any time cancel or withdraw that notice.

(7) An appeal shall lie, under Part IX against the issue of a notice by the Authority under subsection (1), or against the refusal of the Authority to cancel or withdraw such notice under subsection (6).

(8) Pending the determination of any such appeal referred to in subsection (7) the notice concerned shall be deemed to be suspended in its operation, save that any further development or work carried out shall be a breach of planning control.

PART V

ENFORCEMENT

34. (1) Where it appears to the Town and Country Planner that a breach of planning control has taken place, that is to say —

Enforcement
Notice.

(a) that any development of land has been carried out without a development permit required under Part IV; or

(b) that any conditions or limitations subject to which a development permit was granted have not been complied with;

then the Authority may within the period specified in subsection (2) if it considers it expedient to do so, having regard to any development plan applicable to the land where the breach of planning control is alleged to have taken place and to other material considerations such as are set out in section 25 and section 36, serve an enforcement notice in accordance with subsection (4) requiring the breach to be remedied.

(2) Where the enforcement notice alleges a breach of planning control relating to development other than the making of a material change in the use of building or other land or the sub-division of land, the period within which an enforcement notice may be served shall be —

- (a) in the case of development of land alleged to have taken place without grant of a development permit, six years from the carrying out of the development;
- (b) in the case of non-compliance with a condition or limitation, six years from the date of the alleged failure to comply with it.

(3) Where the enforcement notice alleges a breach of planning control relating to the making of a material change in the use of building or other land or the sub-division of land there shall be no time limit restricting the service of an enforcement notice under subsection (1) and in all other respects the provisions of subsection (1) shall apply.

(4) A copy of the enforcement notice shall be served on the owner and on the occupier of the land to which it relates; on any other person having a material interest in the land; on the authorized representatives of the aforementioned persons; and on any other person carrying on or in control of a person carrying on activities on the land which are alleged to constitute the breach of planning control, but the fact that the Authority fails to serve it on any one or other of the persons mentioned herein shall not invalidate any action or proceedings against any other of such persons.

(5) An enforcement notice shall take effect on the date specified in it (in this Part referred to as the “specified date”).

(6) An enforcement notice shall be served not later than 14 days from the date of issue and not later than 28 days before the specified date.

(7) An enforcement notice shall state clearly —

- (a) which breaches of planning control referred to in paragraphs (a) and (b) of subsection (1) are alleged to have taken place;
- (b) the particulars of development which appear to constitute the breach;
- (c) the person or persons on whom it is served in accordance with subsection (5);
- (d) the steps which the Authority requires to be taken to remedy the breach and a reasonable time within which they must be taken;
- (e) the powers of the Authority, in case of default 'in compliance with the notice, to enter upon the land and take the steps specified in paragraph (d);
- (f) the penalties which may be incurred if the steps specified in paragraph (d) are not taken; and
- (g) the opportunities which are available to the person or persons on whom the copy of the enforcement notice was served to appeal the notice.

(8) The steps which the Authority may require to be taken by a person on whom an enforcement notice has been served, to remedy the breach to which the enforcement notice relates, may be all or any of the following namely —

- (a) to restore land as near as may be to the appearance and state that it had before the breach took place including replacement of soil, planting or replanting of trees and other vegetation;
- (b) to comply with any limitation or condition in a development permit;
- (c) to demolish or remove a building in whole or in part;
- (d) to carry out any building or other operations on the land to which the notice relates;

- (e) to discontinue any use of land or buildings;
- (f) to remove anything placed on the land without a development permit;
- (g) to remove any advertisement or to display it in the place permitted by a development permit;
- (h) to remove any unauthorized marks of identification in, on, or over land which have as their purpose the identification of a boundary of a sub-division alleged to constitute a breach of planning control;
- (i) to remove or prevent any damage to the land or amenities of the area which has been or is likely to be caused by the development which constitutes the breach of planning control;
- (j) to do or to refrain from doing or to take or to refrain from taking any actions similar to those listed in paragraphs (a) to (i) which would assist in the ending of the unauthorized development.

(9) The Authority may —

- (a) withdraw an enforcement notice (without prejudice to its power to issue another one in respect of the same breach of planning control) and shall if it does so serve a notice of withdrawal on every person who was served with a copy of the enforcement notice;
- (b) modify an enforcement notice and if it does so the provisions of this section shall apply to any modification of an enforcement notice made under this section as they apply to the enforcement notice.

Material considerations with respect to enforcement notice

35. (1) In considering whether or not an enforcement notice shall be served the Authority shall take into account such of the following matters as may be relevant in the circumstances of the particular case namely —

- (a) any development plan applicable to the land where the breach of planning control is alleged to have taken place;

- (b) any statement of policy issued by the Minister which is relevant to the development;
- (c) the nature and extent of the development which constitutes the alleged breach;
- (d) the extent or likely extent of damage to the natural or built environment;
- (e) the extent to which the development constitutes a nuisance or a threat to public health and safety;
- (f) any objections and representations made by persons in the neighbourhood;
- (g) the length of time the breach of control has continued;
- (h) the expense likely to be involved in compliance with the notice by the person who may be, or has been, served with the notice and that person's capacity to meet that expense;
- (i) the benefits to the community (if any) resulting from the development;
- (j) any possible alternative measures which could be taken to remedy the unauthorized development;
- (k) the effect of the development on any public works;
- (l) whether it is necessary, desirable and convenient having regard to the public interest to serve or confirm an enforcement notice;
- (m) any other material considerations.

36. (1) The Town and Country Planner may, in any case in which he or she considers that a breach of planning control has taken place, by written notice served on the person or persons referred to in subsection (5) of section 35 require that an application shall be submitted for a development permit and in such case the Authority shall refrain from issuing an enforcement notice if such application for a development permit is submitted

Notice to apply
for development
permit

within twenty-eight days of the service of such notice or such extended period as may be agreed.

(2) Where the Authority decides to grant a development permit in respect of an application made in conformity with a notice served under subsection (1), the Authority may grant that development permit with retrospective effect to the date when the development commenced, or such other date as the Authority considers to be appropriate in the particular case.

Suspension of
effect of
Enforcement
Notice.

37. (1) If, within 28 days of the service of the enforcement notice —

- (a) an application is made to the Authority for a development permit for the retention on the land of any buildings or works to which the enforcement notice relates, or for the continuance of any use of the land to which the enforcement notice relates; or
- (b) notice of an appeal is given under section 69 by a person on whom the enforcement notice was served;

the enforcement notice shall be suspended and shall not take effect pending the determination of the application or appeal.

Stop Notice.

38. (1) Where in respect of any land the Authority has served an enforcement notice, the Authority may, at any time before the enforcement notice takes effect serve a further notice (in this Act referred to as a “stop notice”) referring to, and having annexed to it, a copy of the enforcement notice and prohibiting any person on whom the stop notice is served from carrying out or continuing any specified operations on the land, being operations either alleged in the enforcement notice to constitute a breach of planning control or so closely associated therewith as to constitute substantially the same operations.

(2) The operations which may be the subject of a stop notice shall include the deposit of refuse or waste materials on land or causing environmental damage or actions affecting the health or safety of persons where such action is a breach of planning control alleged in the enforcement notice.

(3) A stop notice may be served by the Authority on any person who appears to it to have an interest in the land or to be

concerned with carrying out or continuance of any operations thereon.

(4) A stop notice shall —

- (a) take effect from the date of its service;
- (b) without prejudice to subsection (7) cease to have effect when —
 - (i) the enforcement notice to which it relates is withdrawn or quashed;
 - (ii) notice of the withdrawal of the stop notice is served under subsection (6).

(5) If a person on whom a stop notice is served carries out, or causes or permits to be carried out any operations prohibited by the notice, he or she commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars and if the offence is continued after conviction he or she shall be liable to a further fine not exceeding one thousand dollars for each day on which the offence continues.

(6) The Authority may at any time withdraw a stop notice (without prejudice to their power to serve another) by serving notice to that effect on the person on whom the stop notice was served and the stop notice shall cease to have effect as from the date of withdrawal.

39. (1) If a person on whom the notice was served fails or refuses to take the steps required by the enforcement notice to remedy the breach of planning control within the period specified in the enforcement notice, the Authority may authorize the Town and Country Planner to enter the land with such assistance as may be necessary and take those steps in respect of the unauthorized development to enforce the notice as it may see fit.

Action by
Authority for
non-compliance
with Enforce-
ment Notice.

(2) When the Authority has exercised any power under subsection (1), it may recover as a civil debt, from the person on whom the notice has been served, those expenses reasonably incurred by it in the exercise of such power, and if that person, having been entitled to appeal under section 40, has failed to

make such an appeal he or she shall not be entitled in any proceedings to dispute the validity of the action taken by the Authority or the Town and Country Planner upon any ground that could have been entertained on such an appeal.

(3) Nothing in this Part shall be construed as requiring a development permit to be obtained for the use of land for the purpose for which it could lawfully have been used if the development in respect of which an enforcement notice was served under section 34 had not been carried out.

Appeal against enforcement notice.

40. (1) If any person on whom an enforcement notice is served is aggrieved by the enforcement notice, that person may at any time within 28 days of the service of the notice appeal against the enforcement notice under section 69 and on any such appeal the Tribunal —

- (a) if satisfied that a development permit was granted under Part IV for the development to which the enforcement notice relates, or that no such permit was required in respect thereof, or, as the case may be, that the conditions subject to which such a permit was granted have been complied with, shall quash the enforcement notice to which the appeal relates;
- (b) if satisfied that a variation of the enforcement notice would be appropriate, may vary the enforcement notice accordingly;
- (c) in any other case shall dismiss the appeal.

(2) Where the enforcement notice is varied or the appeal is dismissed the Authority may, if it thinks fit, direct that the enforcement notice shall not come into force until a date, not being later than 28 days from the determination of the appeal.

Continuing operation of enforcement notice.

41. (1) Where any development is carried out by way of reinstating or restoring buildings or works that have been demolished or altered in accordance with an enforcement notice, the enforcement notice shall, notwithstanding that its terms are no longer wholly apt for the purpose, be deemed to apply in relation to any building or works so reinstated or restored as it applied 'in relation to such building or works before they were demolished or altered, and subsection (1) and (2) of section 39 shall apply accordingly.

(2) Without affecting the operation of section 39, a person who carries out any development on land by way of reinstating or restoring buildings or works that have been demolished or altered in contravention of an enforcement notice is liable on summary conviction to a fine of twenty-five thousand dollars.

42. (1) If it appears to the Authority that it is expedient in the interests of the proper planning of the country (including the interests of amenity), regard being had to a development plan and to any other material considerations —

Notice requiring discontinuance of the use or alteration or removal of building or works

- (a) that any use of land should be discontinued, or that any conditions should be imposed on the continuance of a use of land; or
- (b) that any buildings or works should be altered or removed;

the Authority may with the consent of the Minister, by notice (in this Act referred to as a “discontinuance notice”) require the discontinuance of that use, or impose such conditions as may be specified ‘in the notice on the continuance thereof, or require such steps as may be so specified to be taken for the alteration or removal of the buildings or works, as the case may be.

(2) The provisions of subsections (4) to (10) of section 34 inclusive, and the provisions of sections 35, 37, 39, 40 and 41, shall apply to a notice served under subsection (1) in like manner to a compliance notice served under section 34, save that —

- (a) references to an enforcement notice in those provisions shall have effect as if they were references to a notice served under subsection (1);
- (b) references to a breach of planning control shall have effect as if they were references to the use of land or the buildings or works specified in the notice served under subsection (1);
- (c) where a claim for compensation has been submitted under section 64 the provision of section 39 (recovery of expenses incurred by the Authority, in enforcing a notice, on non-compliance by the recipient of the notice) shall be exercisable only by way of

counterclaim, to offset against the said claim for compensation;

(d) paragraph (a) of subsection (1) of section 40 shall not apply;

(e) references to "remedy" the breach of planning control shall have effect as if they were references to the carrying out of the acts and works required under the notice served under subsection (1), and, notwithstanding the adoption of the said provisions for the purposes of this section, it shall not be imputed that work previously carried out under a valid development permit shall be retrospectively deemed unauthorized.

PART VI

ENVIRONMENTAL PROTECTION

Compilation of a list of buildings.

43. (1) The Town and Country Planner may, and if so directed by the Minister shall cause a survey of the buildings in the whole or any part of the country to be made with a view to determining if, having regard to the importance of preserving the architectural, cultural and historical heritage of the country, any such building or part thereof or group of buildings of special architectural or historic interest ought to be preserved or protected, as hereinafter provided.

(2) The Town and Country Planner shall compile or cause to be compiled or adopt the compilation of a list of the buildings of special architectural or historic interest in any area, and may amend, add to or delete from any such list of buildings so compiled and submit that list to the Minister for approval.

(3) Before compiling, adopting or amending any list hereunder, the Town and Country Planner shall consult with the National Parks Authority, the St. John's Development Corporation and such other persons or bodies of persons as appear to him or her appropriate as having special knowledge of, or interest in buildings of architectural or historic interest.

(4) As soon as may be after the approval of the compilation of a list or the amendment of a list, a notice shall be published in the *Gazette* and at least one daily newspaper, of the compilation

or amendment of the list and of the place or places where the list may be inspected.

(5) The Authority shall serve notice on every owner and occupier of a building which has been placed on a list of buildings informing them of that fact.

(6) Subject to this section so long as a building (not being a building to which a building preservation order applies) is included in a list compiled or approved under this section, no person shall execute or cause or permit to be executed any works for the demolition of the building or for its alteration or extension in any manner which would seriously affect its character unless no less than 60 days prior to the execution of the works notification of the proposed works has been given in writing to the Authority.

(7) Nothing in subsection (6) shall render unlawful the execution of any works which are urgently required in the interests of safety or health or for the preservation of the building or of neighbouring property, provided that notice in writing thereof has been given to the Authority as soon as may be after the necessity for the work arises.

(8) Where the Authority receives notice of any proposed works under subsection (6) it shall soon as may be send a copy of the notice to the Minister, the National Parks Authority, the St. John's Development Corporation and to such other persons or bodies as may be specified by directions of the Minister either generally or in respect of the building in question.

44. (1) Where it appears to the Town and Country Planner that it is desirable having regard to the importance of preserving the landscape, architectural, cultural or historical heritage of the country to make provision for the preservation of any building or group of buildings of special architectural or historic interest in the country, the Town and Country Planner may for that purpose make an interim building preservation order restricting the demolition, alteration or extension of the building or group of buildings.

Building
Preservation
Orders.

(2) For the purposes of this section a group of buildings may be made the subject of a building preservation order if by reason

of their proximity and relationship to each other it is considered desirable that, the whole group should be preserved.

(3) A copy of the interim building preservation order shall —

- (a) be served on every owner and occupier of the building or group of buildings concerned;
- (b) be affixed in a prominent place on each building to which the order applies;
- (c) specify the building or group of buildings to which it relates;
- (d) state the effect of the interim order and when it comes into effect;
- (e) invite the owners and occupiers and any other person with an interest in the building or group of buildings to make representations within 28 days of the service or the affixing of the interim building preservation order.

(4) An interim building preservation order shall be in force for a period of 90 days and shall cease to have any effect at the termination of that period unless it is confirmed by the Minister before the termination of that period.

(5) Where an interim building preservation order has been made in respect of a building or group of buildings and while it is in force, any person who executes or causes or permits the execution of any works for the demolition of, alteration or addition to or any other building operations other than essential repairs or maintenance on that building or group of buildings without first obtaining permission from the Authority shall be guilty of an offence.

(6) In considering whether to grant, with or without conditions, or to refuse, permission for any demolition, alteration, addition or other building operations on, or in the curtilage of, a building or group of buildings which is the subject of an interim building preservation order, in addition to any other matters which under the provisions of this Act, it is required to take into account, the Authority shall have regard to —

- (a) the matters mentioned in subsections (1) and (2);
- (b) the desirability of allowing such economic activity within the building or group of buildings as will facilitate their continued preservation and use;
- (c) the quality of architectural design of any proposed additions to or new buildings within the curtilage of the building or group of buildings.

(7) Notice of the service of an interim building preservation order shall be published in at least one daily newspaper and of the opportunity for any member of the public to make written representations on or objections to the interim preservation order within 28 days of the date of the notice.

(8) The Minister may after considering the representations of the owners and occupiers and any other representation made under subsection (7) and the comments of the Authority on any such representation, confirm with or without modifications or cancel the interim building preservation order.

(9) An interim building preservation order shall from the date of the confirmation or without modifications thereto become a building preservation order.

(10) Notice of the making of a building preservation order shall be published in the *Gazette* and at least one daily newspaper.

(11) A building preservation order shall —

- (a) be served on every owner and occupier of the building or group of buildings to which it applies;
- (b) specify the building or group of buildings to which it applies;
- (c) state the effect of the order and when it comes into effect; and
- (d) inform the owner and occupier of the building or group of buildings of the opportunities for making an appeal against the order under section 69.

(12) Where an appeal is made against a building preservation order, the order shall remain in full force and effect notwithstanding the making of the appeal.

(13) The provisions of subsection (5) apply to a building preservation order as they apply to an interim building preservation order.

Purchase notice with respect to buildings subject to a building preservation order.

45. (1) Where the owner of a building for which a building preservation order has been confirmed, claims that —

- (a) the building has become incapable of reasonably beneficial use in its existing state; or
- (b) the building cannot be rendered capable of reasonably beneficial use by the carrying out of the conditions imposed by the building preservation order;

he or she may within the prescribed time and in the prescribed manner serve on the Attorney General a purchase notice requiring the Crown to purchase his or her interest in the building.

(2) The provisions of subsection 67 (3) (a) and (b), and (4) shall apply to a purchase notice served under subsection (1) as if for the word “land” there were substituted the word “building” and as if for the words “modification or revocation notice, the discontinuance notice, the public access notice or the environmental protection order there were substituted the words “building preservation order”.

Plant preservation order.

46. (1) Where the Minister, after consultation with the Minister responsible for the environment and the Minister responsible for agriculture, is of the opinion that it is desirable for amenity, environmental, landscape, scientific or similar reasons that any plant or group or species of plants, ought to be preserved, the Minister may make a plant preservation order with respect to such plant, group or species of plant.

(2) Any person who without the permission (with or without conditions) of the Authority, cuts down, tops, lops, digs up or destroys the plant, group or species of plant, to which a plant preservation order applies, is guilty of an offence.

(3) A plant preservation order shall —

- (a) be served on the owner and occupier of the land on which the plant, group or species of plants, to which the order applies is situated;
- (b) specify the plant, or group or species of plant, to which it applies;
- (c) define the position of the plant, group or species of plant, by reference to a map which shall be available for inspection at a place specified in the order;
- (d) state the effect of the plant preservation order and when it comes into effect; and
- (e) inform the owner and occupier and any other person with an interest in the land on which the plant or group or species of plant, is situated of the opportunities for making an appeal against the plant preservation order.

(4) Where an appeal is made against a plant preservation order, the order shall remain in full force and effect notwithstanding the making of the appeal.

(5) No plant preservation order made under this section shall apply to the cutting down, topping or lopping of plants or trees that are dying or dead or have become dangerous or the cutting down, topping or lopping of any plants or trees in compliance with any obligation imposed by or under any Act or so far as may be necessary for the prevention or abatement of a nuisance.

(6) Notice of the making of a plant preservation order shall be published in the *Gazette*.

47. (1) In any case in which the Town and Country Planner considers that land is — Amenity orders.

- (a) unsightly and injurious to the amenity of the area, and visible to persons using a public highway or any other area to which the public has a right of access; or
- (b) likely to be or is offensive to persons residing in the immediate neighbourhood of such land, by reason

of any waste, rubbish, derelict or abandoned machinery or articles or materials of any kind, or the dilapidated state of any structure or building thereon;

he may prepare and submit to the Authority a draft amenity order.

(2) An amenity order shall state clearly —

- (a) the land to which it applies, and the owner or occupier thereof;
- (b) any matter that is required to be cleared;
- (c) if screening is required to be carried out, the requirements to effect the screening,
- (d) the time, not being less than 28 days from the date of service of the order upon the owner or occupier, for compliance with the order;
- (e) in the case of an order requiring clearance, the matter which must be destroyed, or the place, being an authorized place for the disposal of rubbish, to which it must be removed, as appropriate;
- (f) in the case of a building, the manner in which the building is required to be repaired, painted or demolished, in whole or in part;
- (g) where the Town and Country Planner is aware that the occupier of land to which an amenity order is made is not the owner, the action that is required to be taken by the occupier and the action to be taken by the owner.

(3) A draft amenity order prepared by the Town and Country Planner under subsection (1) shall be submitted to the Authority, together with a statement by the Town and Country Planner in support of the proposed action.

(4) The Authority may approve or reject the draft order.

(5) Where the order is approved by the Authority, copies shall be served on the occupier, or, owner of the land concerned,

or if no such person can be found, may be served by affixing a copy of the order in a conspicuous place on the land concerned.

(6) If any person upon whom an amenity order is served fails to comply with the requirements of the order within the time specified in that order or any extension thereof approved by the Authority, the Authority may *arrange for the work to be carried out* at the expense of the person who is in default, and may recover the cost of so doing as a civil debt from the person in default.

48. (1) Any person upon whom an amenity order has been served under the provisions of section 47 may appeal to the Tribunal constituted under Part IX against the making or terms of such order.

Appeal against
Amenity orders.

(2) An appeal made under subsection (1) may be on any of the following grounds —

- (a) the person upon whom an order has been served is not an owner or occupier of the land to which the order applies;
- (b) the person upon whom the notice has been served has no control over and no authority to remove, destroy or demolish any matter or building referred to in the order;
- (c) the time within which the order must be complied with is not reasonably sufficient for the purpose;
- (d) the work specified in the order is unreasonable in character or extent or is unnecessary,
- (e) that having regard to the character and condition of land and buildings in the immediate neighbourhood, the order is unreasonable.

(3) The Tribunal, upon the hearing of an appeal under this section may confirm, with or without modification, or may quash, in whole or in part, the order against which the appeal is made.

(4) Where an appeal is made under this section, the operation of the order which is the subject of the appeal shall be suspended pending the determination of the appeal.

Public access to
land for
recreational
purposes.

49. (1) Where it appears to the Governor-General, acting on the advice of the Cabinet, that it is desirable that members of the public should have access to any unoccupied Crown land for open air recreation and perambulation on such land, the Governor-General may declare by notice in the *Gazette* that the public shall have access to such land on such terms and conditions as may be specified in such notice.

(2) In any other case, the Minister may negotiate an agreement for such access with the owner or tenant thereof, on such terms as may be agreed.

(3) In any case where the Minister is unable to obtain the agreement of the owner or tenant for such access, the Minister may acquire a right of way over such land in accordance with the provisions of the Land Acquisition Act, as being an interest in land required for public purposes within the meaning of that Act, and shall confer a public right of access by notice in the *Gazette* on such terms as may be specified in such notice, but in such case the owner or tenant of the land shall be entitled to receive compensation from the Crown for the depreciation, if any, in the value of his or her interest in the land by reason of such right of access by members of the public.

(4) If agreement cannot be reached in such a case as is mentioned in subsection (3), as to whether or not any compensation is payable or as to the amount thereof, the matter shall be determined in accordance with the provisions of the Land Acquisition Act.

(5) The Minister may at any time alter or amend the terms on which members of the public have access to any land under the provisions of this section, except that where such access has been authorized with the agreement of the owner or tenant, alteration of such terms shall only be authorized with the agreement of the owner or tenant.

Public Access
and right of way
to beaches.

50. (1) There shall be at least one public landward access to every beach in Antigua and Barbuda.

(2) Where there is no alternative public access, traditional public use of a private landward access through an existing private development shall be sufficient grounds for establishing a public right of way over that access for the purpose of access to the beach by the public.

(3) Where the only landward access to a beach is through an existing private development where traditional public use pursuant to subsection (2) of this section has not been established, the Crown may acquire the right to public use of that beach access by gift, negotiation, contract, purchase or lease, compulsory acquisition 'in exchange for other property, interest, or financial exemption, or by such other means as the Minister may recommend, as a condition of issuance of any permit or licence required under the provisions of any Act.

(4) Where land is acquired by way of compulsory acquisition for a beach access the provisions of the Land Acquisition Act shall apply in respect of such acquisition.

(5) Where a proposed development is likely to adversely affect the public's ability to access a beach from the landward side, any development permit shall require as a condition a landward public access through the development at all times free of charge.

(6) In this section "traditional public use" means peaceable, open and uninterrupted enjoyment for a period of twenty years.

51. (1) Subject to this section, provision shall be made by regulations under this Act for restricting or regulating the display of advertisements so far as appears to the Authority to be expedient in the interest of amenity or public safety, and without restricting the generality of the foregoing, any such regulations may provide —

Control of
advertisements.

- (a) for regulating the dimensions, appearance and position of advertisements that may be displayed, the sites on which the advertisements may be displayed, and the manner in which they are to be affixed to land;
- (b) for requiring the consent of the Authority to be obtained for the display of advertisements, or of advertisement of any class specified in the regulations;
- (c) for applying in relation to any such consent and to applications therefor, any of the provisions of Part IV relating to permission to develop land and to application for development permits, subject to such

adaptations and modifications as may be specified in the regulations;

- (d) for enabling the Authority to require the removal of any advertisement that is being displayed in contravention of the regulations, or the discontinuance of the use for the display of advertisements of any site that is being used for that purpose in contravention of the regulations, and for that purpose for applying any of the provisions of this Part with respect to compliance notices, subject to such adaptations and modifications as may be specified in the regulations;
- (e) for the constitution, for the purposes of the regulations, of such advisory panels as may be prescribed by the regulations, and for determining the manner in which the expenses of any such panels are to be defrayed.

(2) Subject to section 52, regulations made under this section may be made so as to apply to advertisements that are being displayed on the date on which the regulations come into force, or to the use for the display of advertisements of any site that was being used for that purpose on that date.

(3) Regulations made under this section shall provide for exempting therefrom—

- (a) the continued display of any such advertisement as referred to in subsection (2); and
- (b) the continued use for the display of advertisements of any such site as referred to in subsection (2), during such period as may be prescribed in that behalf by the regulations, and different periods may be so prescribed for the purposes of different provisions of the regulations.

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

(5) Regulations made for the purpose of this section may make different provisions with respect to different areas and in particular may make special provision —

- (a) with respect to environmental protection areas;
- (b) with respect to areas defined for the purposes of the regulations as areas of special control, being areas which appear to the Minister to require special protection on the grounds of amenity.

(6) In exercising the powers conferred by this section the Minister shall —

- (a) in the interests of amenity, determine the suitability of sites for the display of advertisements having regard to any development plan applicable to the area and to the general characteristics of the locality including the presence of any feature of architectural, historic, cultural or similar interest and the natural beauty or scenic value of the locality;
- (b) in the interests of public safety have regard to the safety of persons who may use any road, dock, harbour or airfield and in particular shall consider whether any display of advertisements thereon is likely to hinder or obscure any road or traffic sign or any aid to navigation by air or water.

52. (1) Where the display of advertisements in accordance with regulations made under section 51 involves the development of land within the meaning of this Act a development permit for that development shall be deemed to be granted by virtue of this section, and no application shall be necessary in that behalf under the provisions of Part IV.

Supplementary provisions as to advertisements

(2) Without affecting any provisions included in regulations made under paragraph (k) of subsection (2) of section 81, if any person displays an advertisement in contravention of the provisions of the regulations, he or she is liable on summary conviction to a fine of such amount as may be prescribed by the regulations, not exceeding five thousand dollars and, in case of a continuing offence, to a further fine not exceeding five hundred dollars for every day after the first day during which the display is so continued.

(3) For the purposes of subsection (2) and without restricting the generality thereof, a person shall be deemed to display an advertisement if —

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

(4) A person shall not be guilty of an offence under subsection (2) by reason only that an advertisement is displayed on land of which he or she is the owner or occupier, or that his or her goods, trade, business or other concerns are given publicity by the advertisement if that person proves that it was displayed without his or her knowledge or consent.

Environmental
protection area.

53. (1) The Town and Country Planner may and if so directed by the Minister shall cause a survey to be made of the whole or any part of the country, either independently of or as part of a development plan made under Part III of this Act, with a view to determining whether any area of the country ought to be declared an environmental protection area.

(2) Before finally determining whether to recommend to the Minister that any area should be declared an environmental protection area, the Town and Country Planner shall —

- (a) take such steps as in its opinion will ensure that adequate publicity is given to its proposals in the area to which the proposals relate;
- (b) provide persons living and working in the area and any other persons interested in the area with an opportunity of making representations and comments on the proposals;
- (c) consult with the Minister responsible for the environment and any other person, body or authority who appears appropriate as being interested in or having special knowledge on environmental matters;
- (d) receive and take account of the representations and comments received on the proposals.

(3) In determining whether it is desirable to declare any area an environmental protection area the Minister shall have regard to —

- (a) the survey prepared under subsection (1);
- (b) any representations or comments submitted by any person, body or authority on the proposals;
- (c) such of the following matters as may be relevant to the area —
 - (i) the flora and fauna of the area;
 - (ii) the natural features and beauty of the area;
 - (iii) any outstanding geological, physiographical, ecological, or architectural, cultural or historical features of the area which it is desirable to preserve and enhance;
 - (iv) any special scientific interest in the area;
 - (v) any special natural hazards to which the area is or may be subject;
 - (vi) the characteristics, circumstances and interests of the people living and working in the area.

(4) Where the Town and Country Planner is of the opinion that any area ought to be declared an environmental protection area he or she shall submit to the Minister —

- (a) his or her recommendations and proposals;
- (b) a draft of the environmental protection area order;
- (c) a report of the survey made under subsection (1);
and
- (d) the representations and comments received on the proposals.

Environmental
protection area
order.

54. (1) The Minister shall consider the report of the Town and Country Planner and shall in determining whether to declare any area to be an environmental protection area have regard to the matters set out in subsection (3) of section 53.

(2) Where the Minister is of the opinion that it is desirable to afford special protection to an area on account of the matters set out in subsection (3) of section 55, they may by order declare that area to be an environmental protection area.

(3) An order made under subsection (1) may —

- (a) designate any part of an environmental protection area as being an area in which, subject to the grant of development permits, only certain development or classes of development may be permitted;
- (b) prohibit any development within the area or any part thereof;
- (c) authorize the carrying out in the environmental protection area of such works and the doing on the land of such other things as may be expedient for the protection of the area as an environmental protection area;
- (d) provide for control over use of land within an environmental protection area for purposes of agriculture or forestry;
- (e) without prejudice to the provisions of Part IV, require that any person who proposes to undertake any activity or enterprise (not being an activity or an enterprise involving development) of a description or category as may be prescribed shall, no less than 60 days before commencing, notify the Authority of his or her proposals and furnish to the Authority such documents and information as it may require;
- (f) require that environmental impact assessment be undertaken with respect to any proposal for an activity, enterprise or development referred to in paragraphs (a) to (e);

- (g) restrict or prohibit the entry into the area of any person or the movement of, or any activity carried out by, any person in the area.

55. In any case in which private land is included in an area which has been declared to be an environmental protection area, and in which the Minister does not acquire the land under the Land Acquisition Act, any person holding any interest in such land shall be entitled to receive compensation from the Crown for the depreciation if any, of the value of his or her interest in the land consequential upon any restriction imposed on his or her use or interest in the land by reason of such declaration, such compensation to be determined in the same manner as compensation payable under section 64, provided that, if agreement cannot be reached between the Minister and the party concerned as to whether or not any compensation is payable, or as to the amount thereof, the matter shall be determined under the provisions of the Land Acquisition Act.

Provisions with respect to land in environmental protection areas.

56. (1) The Town and Country Planner may prepare or cause to be prepared an environmental protection area management plan with respect to any area declared to be an environmental protection area under section 54.

Environmental protection area management plan.

(2) The purpose of a plan prepared under this section shall be to set out the operational policies and measures for the preservation, enhancement and management of the special features of the environmental protection area, including as may be relevant to the area to which the order applies, policies and measures for—

- (a) the preservation of marine and terrestrial flora and fauna including the regulation of hunting and fishing;
- (b) the protection of water supplies, water catchment areas and mineral resources;
- (c) the prevention of erosion, landslips and flooding;
- (d) the control of fires;
- (e) the control of pollution;

- (f) the designation of special resource and use areas in the coastal zone;
- (g) the use and development of land so as to sustain the local economy of the environmental protection area;
- (h) the prohibition, restriction or regulation of access to any area and the prevention of squatting;
- (i) the development of facilities for residents and visitors for the enjoyment of the special features of the environmental protection area;
- (j) the development of facilities for educational visits, study and research of the special features of the environmental protection area.

Ministerial Order
to protect the
environment.

57. (1) Where the Minister is satisfied on information received from the Town and Country Planner, that it is in the public interest for the purpose of preventing or mitigating a specified environmental threat or hazard so to do, the Minister may by order published in the *Gazette*, direct the Town and Country Planner to take such steps as are necessary to remove, mitigate or prevent any condition that poses or is likely to pose a threat to the environment and the Town and Country Planner shall act in accordance with such order.

(2) An order under subsection (1) may be made to extend to the whole of the country or to any part thereof, and may contain such ancillary and supplementary matters as the Minister thinks appropriate for removing, mitigating or preventing any condition that poses or is likely to pose a threat to the environment.

(3) An order made under subsection (1) shall be subject to the negative resolution of Parliament.

(4) The Town and Country Planner shall cause a copy of every order made under this section to be posted in a conspicuous place at every police station and post office in the country.

(5) Any person who —

- (a) obstructs any person in carrying out any measures authorized by an order under subsection (1); or

(b) contravenes any provision of such order,

commits an offence, and is liable on summary conviction before a Magistrate to a fine not exceeding twenty thousand dollars.

PART VII

BUILDING REGULATIONS

58. (1) The Minister may make regulations hereinafter referred to as 'building regulations' with respect to the design and construction of buildings and the provision of services, fittings and equipment in or in connection with buildings and particularly with respect to the following matters —

Building
regulations.

(a) as to new buildings —

- (i) the preparation and foundations of the site;
- (ii) the *method of construction, structural strength and stability*;
- (iii) the suitability and durability of the materials, including materials of short life and their preservation from decay and infestation;
- (iv) the space about buildings;
- (v) the insulation, lighting and ventilation of rooms;
- (vi) the *dimensions of rooms and spaces*;
- (vii) *fire precautions and safety*;
- (viii) plumbing and water supply;
- (ix) drainage;
- (x) sanitation;
- (xi) sewage disposal;
- (xii) electrical installations, wiring and supply of electricity, gas installations and piping, and telecommunications services;

- (xiii) lifts and other mechanical means of conveyance for access;
- (xiv) refuse disposal, storage, treatment and removal of waste, and emission of noxious or offensive substances;
- (xv) hurricane and earthquake precautions and protection;
- (xvi) means of access to and egress from buildings;
- (xvii) low cost housing;

and any matters connected with, or ancillary to, any of the foregoing matters;

- (b) as to existing buildings, structural alterations or extensions to buildings;
- (c) so far as they relate to the matters mentioned in this paragraph, regulations made under paragraph (a), may be made to apply to buildings erected before the date on which the building regulations came into force but except as aforesaid shall not apply to buildings erected before that date; and
- (d) generally, for carrying the purposes or provisions of this Part of the Act into effect.

(2) Building regulations may —

- (a) exempt any building, part of a building or class of building from any of the requirements of the regulations;
- (b) provide for different regulations to apply to different buildings, parts of buildings or classes of buildings;
- (c) provide for the imposition of or impose conditions on any permit to construct a building.

(3) Regulations made under this section may include provisions as to —

- (a) the preparation of plans, sections, specifications and written particulars;
- (b) the giving of notices and certificates, the inspection and testing of work, (including the power to require the uncovering of work which has been covered prior to inspection), the testing of drains and sewers, and the taking by the Authority or a building inspector of samples of materials to be used in the construction of buildings or in the execution of other works; and
- (c) the prescribing and payment of fees.

59. It shall be a function of the Authority to enforce building regulations and the Authority shall appoint such persons as it shall deem appropriate, as building inspectors, to assist the Town and Country Planner in the performance of such function.

Appointment of building inspectors.

60. (1) No development permit shall be issued in respect of any building operations where —

Passing and rejection of plans.

- (a) the plans are defective;
- (b) the building contravenes any provision of building regulations; or
- (c) there is a failure to comply with the provisions of this Part, in which case the Town and Country Planner shall refer those plans to the Authority together with a recommendation thereon.

(2) If the Town and Country Planner on referring plans in accordance with subsection (1) considers that the operation of any requirement contained in building regulations would be unreasonable in relation to that particular case, the Authority may relax or dispense with that requirement.

(3) Building regulations may provide, as regards any requirement contained in the regulations, that subsection (2) shall not apply.

(4) On receipt of any plans on a referral by the Town and Country Planner under subsection (1), the Authority may —

- (a) reject those plans; or
- (b) issue a development permit subject to either or both of the following conditions namely —
 - (i) that such modifications shall be made to the deposited plans as the Authority may specify; and
 - (ii) that such further plans shall be deposited within such time as the Authority may specify;in order to bring the building into conformity with building regulations; or
- (c) if the Authority is advised by the Town and Country Planner in the manner indicated by subsection (2), it may relax or, dispense with the requirements of building regulations mentioned in that recommendation and issue a development permit.

(6) Where the Authority refuses to grant a development permit because plans are rejected, the notice of refusal shall state the defects on account of which, or the building regulation or section of this Act for non-conformity with which, or under the authority of which, the plans have been rejected.

(7) Where a development permit has been issued by the Authority in exercise of any power to relax or dispense with any requirement of building regulations, or this Part it shall state the requirements of the building regulations or this Part, relaxed or dispensed with.

(8) Any question arising between the Authority or the Town and Country Planner and the applicant as to whether —

- (a) the plans are defective; or
- (b) or the building would contravene the building regulations or this Part; or
- (c) a relaxation of or dispensing with the requirements of the building regulations ought to have been granted under subsection (4);

may on appeal by the applicant be determined by the Tribunal, but no such appeal may be made unless it is made before the proposed work has been substantially commenced.

61. (1) If any work to which building regulations apply, contravenes any provision of this Part or of the regulations, the Authority, without prejudice to any prosecution under this Part, may by notice require the owner either to pull down or remove the work or, if the owner so elects, to effect such alteration therein as may be necessary to make it comply with building regulations or this Part.

Power to require removal or alteration of work.

(2) If a person to whom a notice has been given under the foregoing provisions of this section fails to comply with the notice before the expiration of the period specified in the notice, or such longer period as the Authority may allow, the Authority or any department or officer of the Government or any contractor or officer of the Government or any contractor engaged by any of them may pull down the work, or effect such alterations therein and the Authority may recover from that person the expenses reasonably incurred in so doing as a civil debt.

(3) Nothing in this section shall affect the right of the Authority or of the Attorney General or any other person to apply for an injunction for the removal or alteration of any work on the grounds that it contravenes the building regulations or any provision of this Part.

62. (1) A person aggrieved by the giving of a notice under section 61 may appeal to the High Court.

Appeal against Notices.

(2) On appeal under this section, the Court shall —

- (a) if it determines that the Authority was entitled to give notice, confirm the notice; and
- (b) in any other case, give the Authority a direction to Withdraw the notice.

(3) An appeal under this section shall be brought within 28 days of the giving of notice under section 61 and the notice shall be of no effect pending the final determination or withdrawal of the appeal.

Commencement
and completion
notices.

63. (1) When a development permit has been issued, no building or engineering operations shall be carried out until the developer has given notice in writing to the Town and Country Planner of the intention to commence construction.

(2) Where the Town and Country Planner has been notified in writing by the developer that permitted building or engineering operations have been completed, the Town and Country Planner shall certify if the works have been constructed in accordance with the development permit and building regulations.

(3) Where a development permit 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 shall be transferred under the Registered Land Act unless a completion certificate has been issued under this Act and the Regulations made hereunder in respect of the approved engineering operations.

PART VIII

COMPENSATION AND ACQUISITION

Claim for
compensation.

64. (1) If on a claim for compensation made to the Minister in the manner prescribed it is shown that —

- (a) where a development permit has been revoked or modified by notice under section 33 —
 - (i) the holder of that permit, or the successor in title to that person, has incurred expenditure necessarily arising out of commencing to develop or developing in accordance with that permit or has otherwise suffered loss or damage directly attributable to such revocation or modification; or
 - (ii) any person with an interest in the land or who has lent money on the security of the land, has suffered loss or damage directly attributable to such revocation or modification; or that
- (b) a person has suffered loss or damage by depreciation in the value of an interest in land by virtue of —

- (i) the refusal of the Authority, where a building has been destroyed by fire, hurricane or other natural disaster, to allow a building of similar cubic content to be erected in the same position, as near as can be, to the destroyed building and for the same purposes for which the destroyed building had been used prior to the fire, hurricane or other natural disaster;
- (ii) the making of a notice under section 42 requiring any use of land to be discontinued or imposing conditions on the continuance thereof or requiring that buildings or works on land be altered or removed; or
- (iii) the making of an environmental protection area order under section 54;

then the Minister shall, subject to the provisions of this Part, pay to that person compensation assessed in accordance with this Part in respect of that expenditure, loss or damage.

(2) Compensation payable shall be assessed respect of loss or damage consisting of the depreciation in value of any interest in land directly attributable to the revocation or modification of a development permit if —

- (a) the development permitted by the development permit revoked or modified has not been carried out; or
- (b) the person claiming compensation acquired an interest in the land or building to which the development permit relates for valuable consideration, after the grant of that development permit and such development permit, at the material time, had not lapsed under the provisions of section 30.

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

(4) No compensation shall be payable under this section in respect of any work carried out before the grant of a develop-

ment permit which is revoked or modified, or in respect of any other loss or damage (not being loss or damage consisting of depreciation of the value of an interest in the land) arising out of anything done or omitted to be done before the grant of that permit.

(5) If a person has suffered loss or damage consisting of depreciation in the value of an interest in land by virtue of a planning decision referred to in subsection (1), compensation shall be payable in an amount equal to the difference between the value of the interest in the land and what the value would have been if the relevant decision had been a decision to the contrary effect, but no compensation shall be paid under in respect of loss or damage consisting of depreciation of the value of an interest in land where that value was attributed to use of the land or development thereon which was in breach of planning control.

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

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

(8) Where a claim for compensation has been made to the Minister —

- (a) he shall consult with the Authority, who after making such enquiries as it thinks fit shall submit its own recommendation on the matter to the Minister;
- (b) where it appears to the Minister that the decision which gave rise to the claim 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 the decision which gave rise to the claim;

- (c) where such a claim for compensation cannot be settled through negotiation between the claimant and the Minister, the Minister shall refer the question as to whether any compensation is payable to the claimant, or as to the amount thereof, for decision by the High Court, which for the purpose shall be constituted as provided by the Land Acquisition Act, and the provisions of that Act shall apply *mutatis mutandis* to the assessment of compensation payable under this Part as they apply in the case of compensation payable under the Land Acquisition Act.

65. Where any compensation is payable under this Part in respect of the depreciation of the value of an interest in land which is subject to a mortgage —

Position where land is subject to mortgage.

- (a) the amount of the compensation payable shall be assessed as if the interest was not subject to the mortgage;
- (b) a claim for any part of such compensation may be made by any mortgagee of that interest but without prejudice to the making of a claim by the person entitled to the interest;
- (c) no compensation to which this section applies shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage); and
- (d) any compensation to which this section applies which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee, or, if there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by the mortgagee as if it were proceeds of sale.

66. (1) Where a claim for compensation is made under section 64 notice of that fact shall —

Registration of claim for compensation.

- (a) be recorded in the register of planning applications; and

(b) be deposited with the Registrar of Land;

(2) Notices deposited under this section shall specify —

- (a) the land to which the claim for compensation relates;
- (b) the relevant planning decision, notice, or order to which the claim for compensation relates; and
- (c) the amount of the compensation and any apportionment of it among claimants.

Purchase notice with respect to adverse decisions.

67. (1) Where any person having an interest in land for which —

- (a) a development permit has been refused and there is available with respect to that land no development permit to which this Act applies;
- (b) a development permit has been revoked or modified by imposition of conditions;
- (c) a discontinuance notice has been served under section 42;
- (d) a public access notice has been made under section 49; or
- (e) an environmental protection area order has been made under section 53;

claims that such land has become incapable of reasonably beneficial use in its existing state, or cannot be rendered capable of reasonably beneficial use by the carrying out of the conditions of the modification or revocation notice, the discontinuance notice or the environmental protection area order as the case may be; that person may within the prescribed time and in the prescribed manner serve on the Attorney General a purchase notice, requiring the Crown to purchase his or her interest in the land.

(2) Where the purchase notice served under subsection (1) relates to the refusal of a development permit, the making of a

modification or revocation notice or the making of a discontinuance notice, the Minister may if he or she considers it expedient so to do, refer it to the Tribunal for reconsideration of the refusal of grant of a development permit, the making of the modification or revocation notice or the making of the discontinuance notice.

(3) The Minister may —

- (a) refuse to confirm the purchase notice; or
- (b) if satisfied that the land has become incapable of reasonably beneficial use in its existing state, or cannot be rendered capable of reasonably beneficial use by the carrying out of the conditions of the modification or revocation notice, the discontinuance notice or the environmental protection area order as the case may be, shall confirm the purchase notice; or
- (c) instead of confirming the notice —
 - (i) grant a development permit to any development application in question;
 - (ii) cancel or amend the modification or revocation notice;
 - (iii) revoke or amend the discontinuance notice.

PART IX

APPEALS

68. (1) There is hereby established an Appeals Tribunal for the purpose of hearing and determining appeals referred to it under this Act.

Establishment of
Appeals Tribunal.

(2) The Tribunal shall be appointed by the Minister and shall consist of —

- (a) a Chairperson, who shall be a legal practitioner;
- (b) a Civil Engineer or an Architect or a Town and Country Planner (other than the one appointed under section 6);

(c) two persons who have knowledge and experience of matters relevant to this Act; and

(d) one person who has knowledge and experience in environmental matters.

(3) A member of the Tribunal shall hold office for a period not exceeding two years but shall be eligible for reappointment upon the expiry of any such period.

(4) The names of all members of the Tribunal as first constituted and every change in the membership thereof shall be published in the *Gazette*.

(5) The Town and Country Planner shall appoint from the staff of the Authority a secretary to the Tribunal.

(6) The secretary shall keep a written record of all proceedings of the Tribunal which shall be confirmed by the chairman.

(7) The decisions of the Tribunal shall be by a majority of votes of members present and voting and in addition to an original vote, the chairman shall have a second or casting vote in any case in which the voting is equal.

(8) A member of the Tribunal who is in any way directly or indirectly interested in a matter coming before the Tribunal shall declare the nature of his or her interest in the matter as soon as it is practicable to do so, and shall take no part directly or indirectly in any deliberation, discussion, consideration or similar activity by the Tribunal on that matter.

(9) Subject to the provisions of this Part, the constitution and procedure of the Tribunal shall be such as may be prescribed by the Minister.

Right of Appeal.

69. (1) Any applicant, or person other than an applicant, whose interest in land may be affected by a decision of the Authority set out in subsection (2) if dissatisfied with such a decision of the Authority may appeal to the Tribunal against that decision in the manner prescribed hereunder.

(2) An appeal shall lie to the Tribunal against any decision made by the Authority under this Act —

- (a) refusing to grant a development permit;
- (b) any condition subject to which a development permit has been granted;
- (c) refusing consent to display an advertisement;
- (d) any condition subject to which consent to display an advertisement has been granted;
- (e) modifying or revoking a development permit;
- (f) requiring the completion of a development within a time limit;
- (g) refusing a building permit;
- (h) refusing to relax or dispense with the requirements of the building regulations;
- (i) imposing a building preservation order;
- (j) imposing a plant preservation order;
- (k) making an amenity order, on any of the grounds mentioned in subsection (2) of section 48;
- (l) issuing an enforcement notice or as to the terms thereof;
- (m) issuing a notice requiring discontinuance of use or alteration or removal of buildings or works.

(3) Subject to any provisions to the contrary in this Act, any person wishing to appeal under subsection (2) shall send a notice of appeal to the secretary of the Tribunal within —

- (a) 42 days of the determination of the decision which is to be appealed against under any one of paragraphs (a) to (h) of subsection (2); or
- (b) 42 days of the date on which the order which is to be appealed against under paragraphs (i) to (k) of subsection (2) was served; or

(c) the period specified in the notice as the period at the end of which the notice is to take effect in the case of a notice which is to be appealed against under paragraphs (l) or (m) of subsection (2).

(4) Upon receipt of a notice of appeal, the secretary of the Tribunal shall forthwith send a copy thereof to the Authority.

(5) A notice given under subsection (3) shall set out —

- (a) concisely the decision appealed against;
- (b) a description of the land affected thereby;
- (c) the name of the appellant;
- (d) the interest of the appellant in the land affected by the decision; and
- (e) concisely the grounds on which the appellant wishes to appeal against the decision.

(6) Where notice given under subsection (3) the Town and Country Planner shall forward to the Tribunal —

- (a) a copy of all papers and documents submitted by the appellant or any person acting on his or her behalf to the Authority;
- (b) a copy of the decision appealed against;
- (c) a plan sufficiently identifying the location and boundaries of the land affected by the decision.

(7) On receipt of a copy of the notice given under subsection (3) the Tribunal shall reject the notice of appeal if —

- (a) it appears not to comply with subsection (5) but the tribunal may give an opportunity to the appellant to rectify the notice within such period as it may determine;
- (b) the appellant appears not to have any sufficient interest in land affected by the decision to justify an appeal by that person against the decision.

(8) The Tribunal shall, in its discretion, direct whether the appeal shall be dealt with by public inquiry or, by written representations and shall, within 28 days of receipt of the notice of appeal, notify the appellant and the Authority accordingly.

(9) Unless the Tribunal directs that a public inquiry shall be held in relation to an appeal, the appeal shall be dealt with by written representations.

(10) The Tribunal shall take the following matters into consideration before deciding whether the appeal may be dealt with by written representations or by public inquiry —

- (a) whether the public interest requires that all persons (including the appellant) who may have a view to express in relation to the matter to which the appeal relates should have an opportunity of having their views taken into account of submitting evidence and of examining witnesses called by others;
- (b) without prejudice to the generality of paragraph (a) whether it would reasonably practicable to deal with the appeal by way of written representations;
- (c) the nature, scale and location of the development to which the appeal relates.

(11) Where the Tribunal decides that a public inquiry shall be held, it shall notify the appellant and the Authority of the fact and of the time and place at which the public inquiry shall be held and a notice thereto shall be published in the *Gazette*.

70. (1) Whenever the Tribunal has directed that an appeal to which section 69 relates shall be dealt with by written representations the secretary to the Tribunal shall send a copy of the direction to the appellant and to the Authority and each of them shall within six weeks thereafter send to the Tribunal and to the other of them such written representations as they wish to make in relation to the appeal (hereinafter referred to as “written representations”).

Appeals by
written
representations.

(2) Within 28 days of the receipt of the written representations of the other, or within the six weeks period specified in subsection (1), which ever is the later, the appellant and the

Authority shall send to the Tribunal and to the other of them in writing such further representations as they may wish to make arising out of the written representations of the other.

(3) The Tribunal in deciding an appeal by written representations, shall not —

- (a) receive any oral evidence or submissions; or
- (b) consider any representations in writing other than those provided for by subsections (1) and (2) unless it has given the appellant or the Authority (as the circumstances require) a full and sufficient opportunity of answering them in writing.

(4) The record to be kept of the proceedings under this section shall contain —

- (a) a list of the names and addresses of the parties;
- (b) a summary of the written representations submitted;
- (c) a list of all models, maps, plans, drawings, sketches, diagrams, photographs, petitions, and written statements submitted with the written representations;
- (d) the Tribunal's findings of fact in relation to any relevant matter;
- (e) a full and clear account of the reasoning of the Tribunal on which its decision is based; and
- (f) the decision of the Tribunal on the appeal.

(5) The Tribunal acting in its discretion shall, following the expiration of the period specified in subsection (2), decide the appeal and in deciding shall have like powers to those under subsection (1) of section 73 and shall determine its own procedure in relation to appeals by written representations, and the provisions of section 71 shall apply, with necessary modifications, to appeals under this section.

Procedure at
public inquiries.

71. (1) It shall be the primary function of a public inquiry to determine the merits of the appeal having regard to the pur-

poses of this Act set out in section 3, the need to secure consistency in the execution of policy, any approved plan relevant to the issues and any other relevant considerations.

(2) Subject to the provisions of this Act and any regulations made thereunder, the Tribunal may in its discretion determine the procedure to be followed at any public inquiry directed under section 71 as appears to it most convenient to enable the functions referred to in subsection (1) to be fulfilled without being bound to adopt such procedure as might be appropriate in a court provided that the Tribunal shall —

- (a) at all times have regard to the rules of natural justice in the conduct of the proceedings for the determination of the appeal;
- (b) ensure, when hearing evidence of one party, that the other party has had an opportunity to consider that evidence and to make comment or representation on it.

(3) Without prejudice to the generality of subsection (2) —

- (a) there may be given and received in evidence at a public inquiry any material, which the Tribunal may consider relevant to the subject matter of the inquiry whether or not it would be admissible in a court of law;
- (b) evidence at a public inquiry may be given on oath or affirmation or as unsworn evidence or partly as sworn evidence and partly as unsworn evidence, as the Tribunal may think fit;
- (c) any interested party may appear in person or may be represented by another person acting with his or her authority and whether or not that other person is a legal practitioner.

72. A record shall be kept of all public inquiries held by the Tribunal.

Records of public inquiries.

(2) The record under this section shall contain —

- (a) a list of the names and addresses of all persons heard at the public inquiry and, where any such person was represented by another, the name and address of that representative;
- (b) a list of the names and addresses of all persons giving evidence at the public inquiry;
- (c) a summary of the evidence given by each person who gave evidence at the inquiry;
- (d) a list of all exhibits (including models, maps, plans, drawings, sketches, diagrams, photographs, petitions, and written statements) received in evidence at the inquiry;
- (e) the Tribunal's findings of fact in relation to any relevant matter;
- (f) a full and clear account of the reasoning of the Tribunal on which its decision is based; and
- (g) the determination of the Tribunal as to the manner in which the appeal should be disposed of.

(3) Every record under this section shall be accompanied by all documents referred to in paragraph (d) of subsection (2).

Decision and notification of appeal.

73. (1) The Tribunal in deciding whether to allow or dismiss the appeal may —

- (a) allow the appeal in whole or in part and quash the decision of the Authority;
- (b) if it allows the appeal in part, do so by varying the decision of the Authority in any manner and subject to any conditions or limitations it thinks fit, but not so as to impose any condition or requirement the Authority had no power under this Act to impose when making the decision or taking the action appealed against;
- (c) correct any procedural defect in the decision or error of law in the order of the Authority appealed against;

- (d) dismiss the appeal and confirm the decision of the Authority.

(2) As soon as reasonably possible after the decision of the Tribunal the secretary to the Tribunal shall send to the appellant, to the Authority and to the Minister written notification of the determination of the appeal together with full and clear reasons for that determination.

PART X

MISCELLANEOUS AND SUPPLEMENTARY

74. (1) Subject to subsection (2), the Authority, any member of the Authority, the Town and Country Planner, or any person authorized by the Authority in writing, may during working hours enter on any land or in any building — Powers of Entry.

- (a) to carry out any investigation in connection with the preparation of any development plan under the provisions of Part III;
- (b) to obtain information relevant to the determination of any application for a development permit or for any consent, licence or permit under this Act;
- (c) to determine whether any breach of planning control is being or has been undertaken on the land or in any building thereon;
- (d) to determine whether any order or interim order should be made under Part VI or for the exercise of any powers conferred by any such order;
- (e) for the purposes of determining whether or not any compensation is payable under Part VIII, or as to the amount thereof;
- (f) to ensure compliance with the Act and regulations.

(2) Any person who enters on any land or building under the provisions of this section, without the consent of the owner or occupier thereof, shall give such owner or occupier not less than twenty-four hours written notice of his or her intention so

to do and the intended purpose of such entry; and if the person entering requires to search and bore for the purpose of examining the nature of the sub-soil, that fact shall be stated in the notice.

(3) Before exercising any powers under this section, the Town and Country Planner or any other person concerned shall provide evidence of identity and authorisation to the occupier or other person who is or appears to be in control of the land or building concerned.

(4) The powers conferred by this section shall be deemed to extend to permit the Town and Country Planner or other person concerned to make such examination and inquiries as are necessary to achieve the purposes for which the entry was authorized.

(5) If any damage is caused by reason of the exercise of any right of entry conferred by this section, or in the making of any survey for the purpose for which such right of entry was conferred, or by the wrongful or negligent use of powers, conferred, or alleged to have been conferred, by this section, the Authority as soon as may be after such entry, shall pay compensation to the person injured thereby. If the amount of such compensation cannot be agreed, the amount payable shall be determined in the same manner as compensation payable under section 64, and the Town and Country Planner shall refer the matter accordingly.

(6) Nothing in subsections (2) or (5) applies in respect of any work or operation which the Minister, the Authority, or any public officer is authorized to do or carry out in relation to any building or land under Part VII and for the purposes of Part VII and those regulations it is declared that the Minister, the Authority and any public officer has a right to enter on any land or in any building during working hours —

- (a) for the purpose of ascertaining whether there is, or has been, on or in connection with the premises, a contravention of Part VII of this Act;
- (b) for the purpose of ascertaining whether or not circumstances exist that would authorize or require the

Authority to take any action, or execute any work, under Part VII of this Act;

- (c) for the purpose of taking any action, or executing any work, authorized or required by Part VII of this Act or by notice made under Part VII of this Act; or
- (d) generally for the purpose of the performance by the Authority of its functions under Part VII of this Act.

75. Any notice or other document required or authorized to be given or served under this Act or under any regulation, order, direction or other instrument made under this Act may be served on or given to the person concerned —

Service of notices.

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

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

Power to require information.

(2) Any person who, having been required in pursuance of this section to give any such information, without reasonable cause fails to give that information within twenty-eight days of being so required, or such longer period as the Town and Country Planner may allow in any particular case, shall be guilty of an offence and liable on summary conviction to a fine of five hundred dollars.

(3) Any person to whom information has been given under this section, or otherwise under this Act, or who has obtained any information in the course of his or her duties under this Act, who makes any unauthorized disclosure of that information to any person who is not required to receive that information shall be guilty of an offence and liable on summary conviction to a fine of [ten thousand dollars] or to imprisonment for six months, or to both such fine and imprisonment.

Register of
planning and
associated
decisions.

77. (1) The Town and Country Planner shall maintain a register of all —

- (a) applications for development permits;
- (b) decisions on applications referred to in paragraph (a) and any conditions attached to development permits;
- (c) notices of modification or revocation of development permits;
- (d) compliance notices, stop notices, injunctions and discontinuance notices;
- (e) public access agreements or notices under sections 49 and 50;
- (f) any orders made or notices served under Part VI;
- (g) applications for building permits;
- (h) decisions on applications referred to in paragraph (g) and any conditions attached to approvals;
- (i) development agreements under section 28 and performance bonds under section 29;

- (j) purchase notices under section 45;
- (k) applications for express consent to display advertisements under section 51;
- (l) claims for compensation under section 64;
- (m) decisions on appeals against any decisions made or action taken under this Act; and
- (n) such other documents as the Town and Country Planner may determine.

(2) Any person who so requests shall be provided by the Town and Country Planner with a copy of any entry in the register upon payment of the prescribed fee.

(3) The register required to be maintained by subsection (1) shall include an index which shall be in the form of a map and both the register and the index may be kept in an electronic data storage and retrieval system whether by use of a computer or otherwise.

78. (1) The Town and Country Planner shall notify the Registrar of Land, giving full details with respect to the parcels of land affected, of every —

Notification of decisions to Registrar of Land.

- (a) modification or revocation of a development permit;
- (b) enforcement notice;
- (c) discontinuance notice;
- (d) plant preservation order;
- (e) amenity order;
- (f) development agreement;
- (g) claim for compensation;
- (h) purchase notice.

(2) The Registrar of Land shall duly record the matters referred to in subsection (1) on the Register of Titles.

Death of person having claim or right.

79. Any reference in this Act to any person having a claim for or a right to the payment of compensation, or to appeal against any decision given under this Act, upon the death of that person before the determination of the matter at issue, shall be construed as if such reference were a reference to that person's personal representatives.

Offences.

80. (1) Any person who, without reasonable excuse —

(a) fails to comply with the requirements of —

(i) an enforcement notice issued under section 34;

(ii) a notice to discontinue use or to alter or remove buildings or works issued under section 42;

(iii) a building preservation order or interim building preservation order made under section 44;

(iv) a plant preservation order made under section 46;

(v) an amenity order made under section 47; or

(b) willfully gives false information, relating to any matter in respect of which he or she is required to give information under this Act; or

(c) obstructs any person in the exercise of any powers or the performance of any duties under this Act; or

(d) fails to comply with any regulations made with respect to the control of any activities in, or the management of, any environmental protection area, shall be guilty of an offence and liable —

(i) on summary conviction to a fine of five hundred dollars, and if, in the case of a continuing offence, the contravention is after such conviction, he or she shall be guilty of a further

offence and liable to a fine of one hundred dollars for each day on which the contravention continues;

- (ii) on conviction on indictment, to a fine of ten thousand dollars, or to imprisonment for six months, or to both such fine and imprisonment.

(2) Where an offence under this Act is committed by a body corporate and is proved to have been committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate, or of any person who was purporting to act in such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) Proceedings in respect of an offence alleged to have been committed under this Act may be brought, with the approval of the Authority, by the Town and Country Planner, provided that if it is considered that the gravity of the offence requires that it be tried on indictment, proceedings shall only be brought by or with the consent of the Director of Public Prosecutions.

81. (1) The Minister may make regulations for carrying into effect the provisions of this Act. Regulations.

(2) Without derogation from the generality of the power conferred by subsection (1), such regulations may provide for —

- (a) the form and scope of development plans;
- (b) the procedures for public representations during the preparation of a plan;
- (c) the procedures to be followed and the forms to be used in connection with —
 - (i) applications for development permits;
 - (ii) consultation on applications for development permits;
 - (iii) enforcement notices;

- (iv) the modification or revocation of a development permit;
- (v) claims for compensation;
- (vi) purchase notices;
- (d) development which may be permitted under subsection (2) of section 18, without the prior grant of a development permit;
- (e) the designation of classes of development which are likely to derogate from amenity under section 22;
- (f) the management and protection of environmental protection areas and the preservation of any form of marine or other wildlife therein;
- (g) the procedures for environmental impact assessment and the form environmental impact statements;
- (h) access to land for recreational purposes and to beaches;
- (i) fees payable for the purposes of the Act;
- (j) the qualifications required of persons signing forms, plans and drawings on behalf of any applicant for a development permit and the qualifications required of persons preparing environmental impact statements;
- (k) the control of advertisements;
- (l) the preservation of buildings and plants;
- (m) the form of the register to be maintained under section 77;
- (n) building regulations.

(3) The Land Development and Control Regulations 1996 are saved and continued in force, notwithstanding the repeal of the

Land Development and Control Act hereby, and are deemed to have been made under this section.

(4) Regulations made under this section may provide, for the breach thereof, for penalties not exceeding five thousand dollars or imprisonment not exceeding one year.

82. This Act binds the Crown.

Effect on the Crown.

83. The Town and Country Planning Act and the Land Development and Control Act, are hereby repealed.

Repeal of Cap. 432 and Cap. 235.

FIRST SCHEDULE

Section 5.

CONSTITUTION, PROCEDURES AND FINANCES OF THE DEVELOPMENT CONTROL AUTHORITY

1. In this Schedule —

Interpretation.

“Chairman” includes a person elected to act temporarily in place of the chairman; and

“Secretary” means the person employed by the Authority to perform the functions of Secretary to the Authority.

2. (1) The Authority shall consist of eleven members, namely —

Constitution of the Authority.

- (a) the Town and Country Planner;
- (b) the Director of Public Works;
- (c) the Chief Health Inspector;
- (d) the Officer in Charge of the Lands Division;
- (e) the Chief Surveyor;
- (f) the General Manager of the Antigua Public Utilities Authority;
- (g) the Director of Agriculture;
- (h) the Chief Environment Officer; and

(i) three persons not holding any public office who have knowledge and experience of matters relevant to physical planning or any other matters relevant to this Act, appointed by the Minister.

(2) The Minister shall appoint one of the members appointed under subparagraph (1) (i) to be Chairman of the Authority.

(3) A member appointed under paragraph (i) of subsection (1) shall serve on the Authority for a period not exceeding two years, but shall be eligible for re-appointment, provided that no member, save an *ex-officio* member, shall hold office for a period of longer than six consecutive years.

(4) The Minister may at any time revoke the appointment of any member appointed under paragraph (i) of subsection (1).

(5) The names of all members of the Authority as first constituted and every change of membership thereof shall be published in the *Gazette*.

Procedures of the Authority.

3. (1) The Authority shall meet at least once in every month and at such other times as may be necessary for the transaction of business, at such places and times and on such days as the Authority may determine.

(2) The Chairman shall convene a special meeting of the Authority within seven days of receipt of a requisition for that purpose addressed to the Chairman in writing and signed by any two members of the Authority, and on any other occasion when he or she is directed in writing by the Minister so to do.

(3) The Chairman shall preside at meetings of the Authority at which he or she is present.

(4) The members of the Authority may elect one of their number to act as Chairman during the temporary absence of the Chairman due to illness, inability to attend, absence from Antigua and Barbuda or any other reasonable cause.

(5) At any meeting of the Authority the Chairman and five other members shall form a quorum:

Provided that when any *ex officio* member of The Authority referred to in item (a), (b), (c), (d), (e), (f) or (g) of subsection

(1) is unable to attend a meeting in person, that member may be represented at the meeting by some other person appointed by the Minister; and

Provided further that where any member shall be disqualified by virtue of paragraph 4 from taking part in any deliberation or decision at a meeting of the Authority, that fact shall be disregarded for the purpose of forming a quorum.

(6) The decision of the Authority shall be by vote of the majority members present and voting and, in addition to an original vote, the Chairman shall have a second or casting vote, in any case in which the original voting is equal.

(7) Minutes in proper form of each meeting shall be kept by the Secretary and shall be confirmed by the Chairman as soon as practicable thereafter, at a subsequent meeting.

(8) Subject to the provisions of this Schedule, the Authority shall have the power to regulate its own proceedings.

4. (1) A member of the Authority who is in any way, whether directly or indirectly, interested in any matter whatsoever with which the Authority is concerned, shall declare that interest at the first meeting of the Authority at which that member is present, after the relevant facts have come to his or her knowledge.

Conflict of interests.

(2) A member shall not take part in any deliberation or decision of the Authority with respect to any matter with which the Authority is concerned in which he or she has, whether directly or indirectly, any interest.

(3) A disclosure made under subparagraph (1) shall be recorded in the minutes of the Authority.

(4) Where, owing to the number of members who have declared an interest in an item of business at a meeting, the Authority, lacks a quorum, to transact that item of business, that fact shall be recorded in the minutes and reported to the Minister.

(5) The Minister acting in his or her discretion may grant a dispensation subject to such terms and conditions as he or she shall think fit, to impose, to all or any of the members who have

declared an interest in an item of business to which subparagraph (4) applies so as to allow that item to be disposed of at the meeting of the Authority next following the meeting referred to in subparagraph (4).

Validation of acts done.

5. The validity of anything done under this Act shall not be affected solely by reason of —

- (a) the existence of any vacancy in the membership, or any defect in the constitution of the Authority;
- (b) an omission or irregularity in respect of meeting any proceedings of the Authority under section 4;
- (c) the contravention by a member of the provisions of paragraph 4.

Funds and Resources of the Authority.

6. (1) The funds and resources of the Authority shall consist of —

- (a) any sums appropriated by Parliament for the purposes of the Authority;
- (b) any money paid to the Authority by way of administrative fees, service charges, penalties or fines and all other revenues which may become payable to the Authority pursuant to the provisions of the Act or regulations or any other written law,
- (c) any sums allocated to the Authority from loan funds;
- (d) all other sums payable or property which may in any manner become payable to or vested in the Authority in respect of any matter incidental to its functions.

(2) Where there is a deficiency in the funds of the Authority that deficiency shall be met out of moneys provided by Parliament.

(3) For the purposes of this paragraph, the expression “loan funds” means any sums made available from time to time to the Government of Antigua and Barbuda by way of a loan.

7. (1) The Authority shall prepare annual estimates of its projected revenues and expenditure to be submitted to the Minister who, if he approves the estimates, shall submit them to the Minister of Finance not later than a date specified by the Minister of Finance.

(2) The Authority shall maintain a general fund into which shall be paid all such moneys as may, from time to time, be placed at the disposal of the Authority for the purposes of this Act by Parliament, and any other moneys lawfully be paid to the Authority; and out of this fund shall be paid all the expenses incurred by the Authority in carrying out its functions under this Act and all other liabilities properly incurred by the Authority.

(3) For the purpose of regulating and controlling its financial operations, the Authority may, with the approval of the Minister, make rules in respect of —

- (a) the manner in which and the officers by whom payments are to be approved;
- (b) the bank into which moneys of the Authority are to be paid and then designation of any account with the bank;
- (c) the sum to be retained by the accounting officer to meet petty disbursements and immediate payments and the maximum sum that may be so disbursed for any one payment;
- (d) the method to be adopted in making payments out of the funds of the Authority;
- (e) the level of authority required to write off bad debts in excess of specified sums; and
- (f) generally as to matters necessary for the proper keeping and control of the finances of the Authority.

(4) The Authority shall keep proper accounts of its funds and the accounts shall be audited annually by the Auditor General, or by an auditor appointed in each year by the Minister with the written consent of the Auditor General.

(5) The Authority shall not later than six months after the end of each calendar year submit to the Minister an annual report containing —

- (a) an account of the functioning of the Authority throughout the preceding calendar year in such detail as the Minister may direct; and
- (b) a statement of accounts of the Commission audited in accordance with subparagraph (4).

(2) A copy of the annual report together with a copy of the auditor's report shall be printed and laid before Parliament by the Minister.

Custody and authentication of Seal of the Authority.

8. (1) The seal of the Authority shall be kept in the custody of the Corporate Secretary and shall be authenticated by the signatures of the Chairperson or the Town and Country Planner, and the Secretary, or in such other manner as may be authorized by resolution of the Authority.

(2) Every document purporting to be an instrument under the seal of the Authority be received in evidence and deemed without further proof to be so executed, unless the contrary is proven.

SECOND SCHEDULE

Section 10

MATTERS FOR WHICH PROVISION MAY BE MADE IN DEVELOPMENT PLANS

PART I

ROADS

1. Reservation of land for roads and establishment of public rights of way including public rights of way to beaches.
2. Closing or diversion of existing roads and public and private rights of way.
3. Construction of new roads and alteration of existing roads.
4. The line, width, level, construction, access to and egress from and the general dimensions and character of roads, whether new or existing.

5. Providing for and generally regulating the construction or execution of works incidental to the making or improvement of any road, including the erection of bridges, culverts, gullies, fencing, barriers, shelters, the provision of artificial lighting, and seats and the planting or protecting of grass, trees and shrubs on or adjoining such road.

PART II

BUILDINGS AND OTHER STRUCTURES

1. Regulating and controlling, either generally or in particular areas all or any of the following matters:

- (a) the size and height of buildings and fences;
- (b) building lines, coverage and the space about buildings;
- (c) the objects which may be affixed to buildings;
- (d) the purposes for and the manner in which buildings may be used or occupied including in the case of dwelling houses, the letting thereof in separate tenements;
- (e) the prohibition of building or other operations on any land, or regulating such operations.

2. Regulating and controlling the design, colour and materials of buildings and fences.

3. Allocating any particular land, or all land in any particular area, for buildings of a specified class or classes or prohibiting or restricting either permanently or temporarily, the making of any building or any particular class or classes of buildings on any specified land.

4. Limiting the number of buildings or the number of buildings of a specified class which may be constructed, erected or made, on, in or under any area.

PART III

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 IV

AMENITIES

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

PART V

PUBLIC SERVICES

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

PART VI

TRANSPORT AND COMMUNICATIONS

1. Facilitating the establishment, extension or improvement of systems of transport whether by land, water or air.

2. Allocating sites for use in relation to transport and the reservation of land for that purpose.

3. Providing for the establishment, extension or improvement of telegraphic, telephonic, wireless or radar communication, the allocating of sites for use in relation to such communication, and the reservation of land for that purpose.

PART VII

MISCELLANEOUS

1. Providing for and regulating the making of agreements for the purpose of a development plan by the Minister with owners and other persons, and by such persons with one another.

2. Sub-division of land and in particular, but without restricting the generality of the foregoing —

- (a)* regulating the type of development to be carried out and the size and form of plots;
- (b)* requiring the allocation of land for any of the public services referred to in Part V or for any other purposes referred to in this Schedule for which land may be allocated;
- (c)* prescribing the character and type of public services or other works which shall be undertaken and completed by any applicant for permission to sub-divide as a condition of the grant of such permission;

- (d) co-ordinating the sub-division of contiguous properties in order to give effect to any scheme of development appertaining to such properties.

3. Making any provisions necessary for —

- (a) adjusting and altering the boundaries and areas of any towns;
- (b) effecting such exchanges of land or cancellation of existing sub-division plans as may be necessary or convenient for the purposes aforesaid.

THIRD SCHEDULE

Section 23

**MATTERS FOR WHICH ENVIRONMENTAL IMPACT ASSESSMENT
SHALL BE REQUIRED**

1. An airport, port or harbour, including a yacht marina;
2. A power plant;
3. A crude oil or refinery facility or a petroleum and natural gas storage and pipeline installation;
4. An incinerator, sanitary landfill operation, solid waste disposal site, sludge disposal site, toxic waste disposal site or other similar site;
5. A wastewater treatment, desalination or water purification plant;
6. An industrial estate development project;
7. An installation for the manufacture, storage or industrial use of cement, paints, chemical products or hazardous materials;
8. A drilling, quarrying, sand mining and other mining operation;
9. An operation involving land reclamation, dredging and filling of ponds; and
10. A hotel or resort complex.

Passed the House of Representatives
this 13th day of March, 2003.

B. Harris,
Speaker.

S. Walker,
Clerk to the House of Representatives.

Passed the Senate this 20th day of
March, 2003.

M. Percival,
President.

S. Walker,
Clerk to the Senate.