

## CHAPTER 235

### THE LAND DEVELOPMENT AND CONTROL ACT

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## LAND DEVELOPMENT AND CONTROL

(30th December, 1977.)

1511977.

1. This Act may be cited as the Land Development **Short title.**  
and Control Act.
  
2. In this Act, unless the context otherwise requires— **Interpretation.**
  - “advertisement” means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purpose of advertisement, announcement or direction (excluding any such thing employed wholly as a memorial) and includes any hoarding or similar structure used, or adapted for use, for the display of advertisements and references to the display of advertisements shall be construed accordingly;
  
  - “application” means an application to the Authority for permission to carry out development or for any approval required by the Act and any subsidiary legislation made hereunder;
  
  - “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 the farming of land) the use of land as grazing land, meadow land, market gardens and nursery grounds and the use of land for woodland where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” shall be construed accordingly;
  
  - “agricultural land” does not include the garden of a house or building or land within the curtilage of a house or building (other than a market garden);

"Authority" means the Authority established under the provisions of section 3;

"building" includes any erection, structure or any part of a building erected on or made on or in or under any lands and where the context so permits, includes the land on, in or under which the building is situated but does not include plant or machinery comprised in a building;

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

"development", subject to the provisions of section 8 (2) means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land, or the segregation, division, or sub-division of any building or land whether or not any building, engineering or other operations have been carried out or are intended to be carried out for the formation of lots;

"engineering operations" includes the formation or laying out of means of access to highways and other roads;

"erection" in relation to buildings as defined in this sub-division, includes extension, alteration and re-erection;

"land" includes land covered with water and also includes incorporeal as well as corporeal hereditaments of every tenure or description and any interest therein and also an undivided share in land;

"means of access" includes any means of access whether private or public, for vehicles or for foot passengers, and includes a road;

"minerals" includes all minerals or substances in or under land of a kind ordinarily worked for removal by underground or surface working;

"Minister" means the member of the Cabinet to whom responsibility for the subject of land development and control is assigned;

"owner" in relation to any building or land means a person, other than a mortgagee not in possession, who, whether in his own right or as trustee or agent for any other person, is for the time being entitled to receive the rack rent and profits of the building or land, or where the land or building is not let at a rack rent, would be so entitled if it were so let;

"road" means any public or private road in Antigua and Barbuda including any street, alley, land, bridge, wharf and embarkment;

"sub-divide" means to divide or sub-divide a lot or parcel of land or building into two or more parts for sale, transfer, lease, letting, use, trust or for any other transaction as well as for the development of a new building;

"Town and Country Planner" means the person appointed as such under section 7.

**3.** (1) There is hereby established a Development Control Authority (hereinafter referred to as the "Authority") which shall consist of the following members—

**Development  
Control  
Authority.**

- (a) a Chairman to be appointed by the Minister;
- (b) the Director of Public Works;
- (c) the Chief Health Inspector;
- (d) the Lands Officer;
- (e) the Town and Country Planner;
- (f) a member, being a person in the Public Service, appointed by the Minister;

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(g) two members, being persons not in the Public Service, appointed by the Minister.

(2) The members appointed by the Minister under subsection (1) shall be appointed for such period not exceeding two years as the Minister shall in the appointment determine and upon expiration of an appointment such appointed members shall be eligible for re-appointment.

(3) Subject to subsection (4) the Authority shall meet at such times as may be expedient for the transaction of business, and meetings shall be held at such places and times and such days as the Authority may determine.

(4) The Chairman shall at any time call a special meeting to be held within seven days of a written requisition for that purpose addressed to him by any two members of the Authority or by the Minister.

(5) The Chairman and three other members shall form a quorum:

Provided that when any member, being a person referred to in paragraph (b), (c), (d), or (e) of subsection (1) is unable to attend a meeting, he shall be represented thereat by some other person appointed by the Minister.

(6) The Members of the Authority may appoint one of their number to act as Chairman during the temporary absence of the Chairman of the Authority owing to illness, inability to attend, absence from Antigua and Barbuda or any other reasonable cause.

(7) The Minister may at any time revoke the appointment of any member of the Authority if he thinks it expedient to do so.

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

(9) In the case of an equality of votes on any question at a meeting the Chairman of the meeting shall have a casting as well as a deliberative vote in respect of that question.

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(10) A member of the Authority shall not vote upon, nor shall any member or employee of the Authority take part in the discussion of any matter before the Authority in which he has, directly or indirectly by himself or in partnership or as a member of or as a director of a company or like body, any pecuniary interest.

(11) Subject to the foregoing subsections, the Authority shall have the power to regulate its own proceedings.

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

**4.** The Secretary of the Authority shall be appointed **Secretary.** by the Minister.

**5.** (1) No personal liability shall attach to any member, the Secretary or any employee of the Authority in respect of anything done or suffered in good faith under the provisions of this Act and any sums of money, damages or costs which may be recovered against them or any of them for anything done or suffered as aforesaid shall be paid out of the revenues of Antigua and Barbuda. **Indemnity.**

(2) No personal liability shall attach to any member, the Secretary or any employee of the Authority in respect of anything done or suffered in good faith under the provisions of this Act and any sums of money, damages or costs which may be recovered against them or any of them for anything done or suffered as aforesaid from the period of the expiration of the Land Development (Interim Control) Act, 1974, until the coming into force of this Act shall be paid out of the revenues of Antigua and Barbuda.

**6.** (1) It shall be the duty of the Authority to institute a survey of Antigua and Barbuda, examining the matters which may be expected to affect the development of Antigua and Barbuda or the planning of its development and in any event to keep all such matters under review. **Development Plan.**

(2) Notwithstanding that the Authority have carried out their duty under subsection (1) above, the Authority **may**, if it thinks fit, and shall, if directed to do so by the Minister,

institute a fresh survey of Antigua and Barbuda examining the matters mentioned in that subsection.

(3) The Authority shall be responsible for the preparation of a report on their survey under subsection (1) and a Development Plan for Antigua and Barbuda as specified in subsection (4).

(4) (a) The Development Plan shall comprise a written statement, accompanied as necessary by diagrams, illustrations and descriptive matter, setting out the proposed development of Antigua and Barbuda and also formulating the Authority's policy and general proposals in respect of the development and other use of land in Antigua and Barbuda (including measures for the improvement of physical environment and management of traffic).

(b) Such policy and proposals shall have regard to the current and future policies with respect to the economic and social development of Antigua and Barbuda, the resources likely to be available for the carrying out of the proposals, and to such other matters as the Minister may direct them to take into account.

(5) The Development Plan shall be submitted to the Minister, who shall submit it to the Cabinet for approval, together with any recommendations he may consider appropriate.

(6) Prior to submission of the Development Plan to the Cabinet, the Minister may direct the Authority to hold one or more public meetings on the Plan or on any part thereof.

(7) The Authority shall publish in the Gazette, and, if it deems fit in any other news media, notice of the time and place at which any such public meeting as may be directed under subsection (6) is to be held, at least seven days prior to the date of such meeting.

(8) A record of the proceedings of any public meeting held pursuant to subsection (6) shall be kept by the Secretary of the Authority and a copy thereof shall be furnished to the Minister as soon as is practicable thereafter.

(9) The Cabinet may approve the Development Plan submitted to it or may direct that the Authority—

(a) make such alterations or additions to the Plan as the Cabinet may direct; or

(b) redraft the Plan for submission through the Minister to the Cabinet for approval.

(10) Upon approval of the Development Plan it shall be called the "Approved Development Plan" and shall be used by the Authority and all departments or agencies of Government as a policy guide and for the preparation of ancillary plans for development and development control.

(11) The Approved Development Plan shall be available for inspection by the public at the office of the Authority during normal office hours.

**7.** The Minister shall appoint a Town and Country Planner for the purposes of this Act. **Appointment of Town and Country Planner.**

**8.** (1) Subject to subsection (2), no person shall— **Permission to develop land.**

(a) develop any land or building except under and in accordance with the terms of development permission granted for the purpose by the Authority; or

(b) subdivide any land except under and in accordance with the terms of development permission granted by the Authority; and it shall be the policy of the Government to withhold the provision of improvements and services until such permission is granted; or

(c) without the approval of the Authority display any advertisement on any external part of a building or on a hoarding on any land.

(2) The provisions of subsection (1) shall not apply to any development specified in the Schedule.

(3) If any person develops any land or building or displays any advertisement in contravention of the provisions of this Act, the owner of the land and every person who in any way engages himself in such development or

readjusted by him, which the Demarcation Officer is unable to resolve; or

(b) there are two or more claimants to any interest in land and the Recording Officer is unable to effect agreement between them,

the Demarcation Officer or the Recording Officer as the case may be shall refer the matter to the Adjudication Officer.

(2) The Adjudication Officer shall adjudicate upon and determine any dispute referred to him under subsection (1), having due regard to any law which may be applicable, and shall make and sign a record of the proceedings:

Provided that nothing in this section shall empower the Adjudication Officer to vary any interest in land registered under the Title by Registration Act.

#### PART IV

##### Principles of Adjudication and Preparation of Adjudication Record

Principles of adjudication etc.

#### **16.** (1) In preparing the adjudication record—

(a) if the Recording Officer is satisfied that a person—

- (i) is in open and peaceable possession of a parcel of land other than a parcel which is Crown Land and has been in such possession, by himself or his predecessors in title, for an uninterrupted period of twelve years or more; or
- (ii) has a good documentary title to the parcel and that no other person has acquired or is in course of acquiring a title thereto under any law relating to prescription or limitation, and that he would succeed in maintaining and defending such possession or title against any other person claiming the land or any part thereof,

the Recording Officer shall record that person as the owner of the parcel and declare his title to be absolute;

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(b) if the Recording Officer is satisfied that any land is entirely free from private rights, or that the rights existing in or over it do not amount to full ownership and are not such as to enable him to proceed under paragraph (d) of this subsection, he shall record the land as Crown Land;

(c) if the Recording Officer is satisfied that any land is subject to any right which is registrable as a lease, charge, easement, profit or restrictive agreement under the Registered Land Act he shall record such particulars as shall enable the right and the name of the person entitled to the benefit thereof to be registered, and if such right is registered under the Title by Registration Act, he shall record such particulars as appear in the register;

(d) if the Recording Officer is satisfied that a person is in possession of or has a right to a parcel but is not satisfied that such person is entitled to be recorded under paragraph (a) of this subsection as the owner of the parcel with absolute title, the Recording Officer may nevertheless record that person as the owner of the parcel and declare his title to be provisional and shall record—

- (i) the date on which the possession of that person shall be considered to have begun;
- (ii) particulars of any deed, instrument or other document by virtue of which some estate, right or interest adverse to or in derogation of the title of that person might exist; or
- (iii) any other qualification which affects the title.

(2) For the purpose of this section—

(a) a person is deemed to be in possession of land if he does not acknowledge the title of any other person to that land and by himself, his agent, tenant or servant, has the use of the land to the exclusion of the public;

(b) "good documentary title" means a title registered under the Title by Registration Act, or a title evidenced by documents which establishes that a person is entitled to land in fee simple and commencing

(2) In making their decision the Authority shall be bound to take full account of the Approved Development Plan.

**Application for approval in principle.**

**10.** (1) An application may be made for approval in principle.

(2) If any person who proposes to carry out any development wishes to have it determined whether what he proposes would constitute development of the land or a building, and if so, whether an application for permission to develop in respect thereof is required under this Act, he may, either as part of an application for permission to develop, or without any such application, apply to the Authority to determine the question.

(3) The provisions of section 13 shall apply in relation to an application under this section, and to the determination thereof, as they apply in relation to applications for the grant of permission for development and to the determination of such an application.

**Determination of application.**

**11.** (1) The Authority may, after consideration of the application, grant permission as to the whole or any part of the application (hereinafter called "development permission") with or without conditions or time limitations or may refuse permission.

(2) If after consideration of the application and examination of the plans, if any, the Authority considers it desirable to do so, it may refer back the application and the plans to the applicant for amendment thereof or may require the applicant to appear before the Authority to justify or clarify any point of the application or plans which the Authority considers necessary.

**Reasons for refusal to be given.**

**12.** If the Authority after due consideration of the application and of the plans, if any, refuses permission to the applicant or grants the development permission subject to conditions or limitations it shall at the same time give the applicant in writing its reason for so refusing, or for imposing conditions or limitations.

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**13.** (1) Upon refusal of the Authority to grant **per-** **Appeal.**  
mission or on the Authority granting development permis-  
sion subject to conditions or limitations, the applicant may,  
within three months after such refusal has been received by  
him appeal against such refusal, conditions or limitations  
to the Minister, setting out the grounds upon which the  
appeal is made.

(2) Every appeal to the Minister under subsection (1)  
shall be referred by him to the Appeals Tribunal established  
under section 14, for the purpose of hearing and determin-  
ing the appeal.

(3) The determination of the Tribunal on any appeal  
referred to it shall be conveyed to the Minister in writing  
and the Minister shall inform the applicant and the Authority  
accordingly.

**14.** (1) The Appeals Tribunal shall be appointed by **Appeals**  
the Minister and shall consist of— **Tribunal.**

(a) a Chairman, who shall be a legal practitioner;

(b) a Town and Country Planner other than the  
one appointed under section 7 or a construction engineer  
or architect;

(c) one other member.

(2) The appointments to the Appeals Tribunal shall be  
for a period not exceeding two years and upon expiry the  
persons appointed shall be eligible for re-appointment.

(3) Notwithstanding subsection (2), the Minister may  
revoke any appointment at any time.

(4) In hearing and determining any appeal, the  
Tribunal shall regulate its own proceedings and shall have  
the power to receive or invite such evidence, including pro-  
fessional opinions, as it deems necessary.

**15.** (1) Unless the Authority gives its decision on an **Deemed refusal**  
application within a period of three months from the receipt **of applications.**  
of the application or such extended period as may be agreed

in writing between an applicant and the Authority, the application will be deemed to have been refused.

(2) Where there is a deemed refusal under subsection (1) the applicant shall have the right of appeal provided by section 13(1).

**Lapse of development permission.**

**16.** In the event of a development not having been, in the opinion of the Authority substantially commenced or an advertisement not having been displayed within the period of two years from the date of granting development permission or within such other period as the Authority may allow, the development permission shall lapse and no such development may take place until a further application has been made under section 9 or 10 and development permission granted under section 11.

**Modification of existing legislation.**

**17.** Where development plans are formulated under, or development permission is given in accordance with, this Act and such development plans or permission are inconsistent with the provisions of any other legislation then such other legislation shall be read and construed with such modifications and adaptations as are necessary to bring it into conformity with this Act.

**Register to be kept.**

**18.** The Authority shall keep a register of all development applications, decisions, appeals, appeals decisions and other relevant information thereto which shall be open for inspection at the office of the Authority during normal working hours, and the maps and plans accompanying an application shall likewise be open for inspection at the office of the Authority..

**Employees.**

**19.** (1) There shall be provided to the Authority, such employees as are necessary for the purpose of carrying out planning studies, surveys, technical reviews, inspections and any other duties directed by the Authority.

(2) Every member of the Authority, and every employee, when engaged in the inspection of private property shall, upon request produce his letter of appointment as member, or employment identity card as employee, of the Authority to the occupier or person in charge of such property.

(3) Every member of the Authority, and every employee, in the performance of his duties under this Act shall have the power to enter (together with such assistant or workman as he may deem necessary) at all reasonable times, any premises or land, and to carry out thereon such examination or enquiring as may be necessary.

(4) Any person who wilfully hinders or assaults any member or employee of the Authority in the performance of his duties under this Act shall be guilty of an offence and liable on summary conviction to a fine of four hundred dollars or to imprisonment for one month.

**20.** Any expenditure incurred by the Authority shall be a charge on and shall be paid out of the public revenue on the authority of Parliament. **Expenditure a charge on public revenue.**

**21.** No compensation shall be payable by Government or by the Authority in consequence of any decision or order given by the Authority, the Minister or the Appeals Tribunal pursuant to any development plan, development permission or regulation made under this Act. **Exclusion of compensation.**

**22.** (1) If it appears to the Authority that the amenity, health or safety of any area within Antigua and Barbuda is seriously injured by reason of the condition of any land or building, garden or vacant site or the condition, waste, neglect of vehicles or scrap in the occupation of land or a road, then it may serve on the owner or occupier of the land a notice requiring such steps for abating the injury as may be so specified. **Derelict land, buildings and vehicles.**

(2) The service of a notice under subsection (1) shall be deemed to be the service of an enforcement notice and the provisions of section 8(5) to (11) inclusive shall be applicable hereto.

**23.** The Minister may make regulations for the better carrying out of the purposes of this Act and, without prejudice to the generality of the foregoing, such regulations may — **Regulations.**

(a) prescribe all matters which are required or permitted to be prescribed;

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- (b) provide for the imposition by a court, of—
- (i) a fine not exceeding one thousand dollars; or
  - (ii) a term of imprisonment not exceeding three months, for any breach of the regulations.

Act binding on  
the Crown.

**24.** This Act shall bind the Crown.

Service of  
notices.

**25.** (1) Subject to the provisions of this section, any notice or other document required or authorised to be served or given under this Act, or under any regulation, order, direction, or instrument in writing under this Act, may be served or given either—

(a) by delivering it to the person on whom it is to be served or to whom it is to be given;

(b) by leaving it at the usual or last known place of abode of that person, or, in the case in which an address for service has been furnished by that person, at that address;

(c) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode, or, in any case in which an address for service has been furnished by that person, at that address; or

(d) in the case of a body corporate by delivering it to the secretary or clerk of the body corporate at its registered or principal office, or sending it in a prepaid registered letter addressed to the secretary or clerk of the body corporate at that office.

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

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(a) being addressed to him either by name, or by the description of "the owner" or "the occupier", as the case may be, of the premises (describing them) it is delivered or sent in the manner prescribed by paragraph (a), (b) or (c) of subsection (1); or

(b) being addressed as aforesaid and marked in such a manner that it is plainly identifiable as a communication of importance, it is sent in a prepaid registered letter to the premises and is not returned to the Authority sending it, or is delivered to some person on those premises or is affixed conspicuously to some object on those premises.

(3) Where the notice or other document is required to be served on or given to all persons having interests in, or being occupiers of, premises comprised in any land, and it appears that any part of that land is unoccupied, the notice shall be deemed to be duly served on all persons having interests in, and on any occupiers of, premises comprised in that part of the land (other than a person who has furnished an address for the service of the notice on him) if it is addressed to "the owners and any occupiers" of that part of the land (describing it), and is affixed conspicuously to some object on the land.

**26.** (1) Any owner or occupier who fails to comply **Non-compliance.** with the terms specified in any notice under this Act within the prescribed period shall be guilty of an offence and liable on summary conviction to a fine of two thousand dollars or to imprisonment for six months.

(2) Every person who, having been convicted under subsection (1) of failing to comply with the terms of a notice, fails within any further period specified by the Authority in a notice served on him, to comply with the requirements of that notice shall be guilty of a further offence and liable for each day during which the offence continues to a fine of one hundred dollars or to imprisonment for one month.

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SCHEDULE

(section 8 (2))

Development for which development permission is unnecessary

1. The development of land for agricultural or forestry purposes, including the construction of buildings, structures and facilities directly related to such use.
  2. The maintenance, alteration or improvement of any building or structure which does not adversely affect the safety or health of any occupier thereof and which does not involve any major structural change or material change of external appearance or any addition thereto.
  3. The erection of any garden hut or similar structure not used for human habitation, but not including a garage.
  4. The erection or installation of any tent, trailer, van or other moveable building.
  5. The construction of pathways or walks or gates, walls or fences not exceeding a height of six feet.
  6. The development of existing buildings, on land within the curtilage of any dwelling house, for any purpose incidental to the enjoyment of occupancy of such building.
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