



BERMUDA

DEVELOPMENT AND PLANNING AMENDMENT ACT 2014

2014 : 24

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WHEREAS it is expedient to amend the Development and Planning Act 1974 to enable the Development Applications Board to delegate to the Director of Planning in certain instances its authority to grant planning permission, and to make minor miscellaneous amendments;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act, which amends the Development and Planning Act 1974 ("the principal Act"), may be cited as the Development and Planning Amendment Act 2014.

Amends section 5

2 Section 5 of the principal Act is amended—

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- (a) in subsection (1) by, after “The Board may”, inserting “, with the approval of the Minister,”;
- (b) in subsection (2) by, after “may give”, inserting “written”;
- (c) in subsection (4) by deleting “Minister” in both places it appears and, in each case, substituting “Board”; and
- (d) by, after subsection (4), inserting—

“(5) An instrument under this section is not subject to section 6 of the Statutory Instruments Act 1977 (parliamentary scrutiny of statutory instruments).”.

Inserts section 5A

3 The principal Act is amended by inserting after section 5 the following—

“Delegation to Director

5A (1) The Board may, with the approval of the Minister, by instrument in writing published in the Gazette and subject to such conditions, directions, reservations and restrictions as they think fit, delegate to the Director their power to grant or refuse planning permission.

(2) The Board may give written directions to the Director, in respect of the functions that have been delegated to him under subsection (1), requiring that any application made to the Director for planning permission, or all such applications of any class specified in the directions, shall be referred to the Board instead of being dealt with by the Director, and any such application shall be so referred accordingly.

(3) Where an application for planning permission is referred to the Board under subsection (2) the Board shall have the same powers in respect of such application as they would have had in the absence of an instrument of delegation under subsection (1).

(4) Where the Director grants, modifies or revokes any planning permission he shall notify the Board within fourteen days thereof and such notification shall contain such particulars of the decision to which it relates as the Board may require.

(5) An instrument under this section is not subject to section 6 of the Statutory Instruments Act 1977 (parliamentary scrutiny of statutory instruments).”.

Amends section 17

4 Section 17 of the principal Act is amended—

- (a) in subsection (1)(a), by deleting “the regulations” and substituting “regulations, rules”; and

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- (b) in subsection (2), by deleting “the regulations” and substituting “regulations or rules”.

Amends section 18

5 Section 18(3) of the principal Act is amended—

- (a) in paragraph (b) by—
- (i) deleting “, during the” and substituting “, the”; and
 - (ii) deleting the full stop at the end of the paragraph and substituting “; and”; and
- (b) by, after paragraph (b), inserting—
- “(c) in the case of planning permission granted by the Director, the period during which appeal may be made to the Board under section 58A(1) and, thereafter, in the event of the making of an appeal, until the final determination or abandonment of the appeal.”.

Amends section 58

6 Section 58 of the principal Act is amended in the heading thereof by, after “Board”, inserting “from decision of a Municipality”.

Inserts section 58A

7 The principal Act is amended by, after section 58, inserting the following—

“Appeal to the Board from decision of the Director

58A (1) Where functions have been delegated to the Director under section 5A and application for planning permission is made to him but is refused by him, or is granted by him subject to conditions, then any person aggrieved by his decision may by notice served within the time, not being less than twenty-eight days from receipt of notification of his decision, as may be specified in the notification, appeal to the Board.

(2) Notwithstanding subsection (1), the Board shall not be required to entertain an appeal under that subsection in respect of the determination of an application for planning permission if it appears to them that planning permission for that development could not have been granted by the Director, or could not have been so granted otherwise than subject to the conditions imposed by him.

(3) Where an appeal is brought under this section from a decision of the Director, the Board may allow or dismiss the appeal or may reverse or vary any part of the decision of the Director, whether or not the appeal relates to that part, and deal with the application as if it had been made to them in the first instance.

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(4) Unless within a period of twenty-eight days, or within such extended period as may at any time be agreed upon in writing between the applicant and the Director, the Director either—

- (a) gives notice to the applicant of his decision on any application for planning permission; or
- (b) gives notice to the applicant that the application has been referred to the Board in accordance with directions given by them under section 5A,

subsection (1) shall apply in relation to the application as if the planning permission or approval to which it relates had been refused by the Director and as if notification of his decision had been received by the applicant at the expiration of the period of twenty-eight days or the extended period agreed upon as aforesaid, as the case may be.”.

Amends section 76

8 Section 76(4) of the principal Act is amended by, after “The Board”, deleting “or a Municipality acting under this Act”.

Amends section 78

9 Section 78(1)(e) of the principal Act is amended by, after “the Board”, deleting “or Municipality”.

Miscellaneous amendments

10 The Morgan’s Point Resort Act 2011 and the Building Code Regulations 1991 are amended by deleting the words “certificate of use and occupancy” wherever they appear and, in each case, substituting the words “certificate of completion and occupancy”.

[Assent Date: 29 July 2014]

[Operative Date: 29 July 2014]