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**CHAPTER 255****TOWN PLANNING****ARRANGEMENT OF SECTIONS**

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**CHAPTER 255**

## TOWN PLANNING

**An Act relating to town planning.**

*[Commencement 31st July, 1961.]*

1. This Act may be cited as the Town Planning Act.

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

“building” includes —

- (a) any part of a building and any addition to any building of whatsoever material and in whatsoever manner constructed, any installation, machinery and plant fixed or attached to any building or property;
- (b) any wall, fence or similar structure bounded by or fronting on a public highway;
- (c) any other boundary wall, fence or similar structure, provided nothing in this Act shall be construed as preventing such wall, fence or similar structure from being erected to a height not exceeding eight feet;

“Committee” means the Town Planning Committee appointed under the provisions of this Act;

“Minister” means the Minister responsible for Urban and Island Planning.

3. The Governor-General shall appoint a Committee to be called the Town Planning Committee which shall consist of seven members. The members of the Committee shall be appointed by the Governor-General by notice in the *Gazette*, they shall hold office at the Governor-General’s pleasure and subject to this shall hold office for three years save that where a person is appointed to fill a casual vacancy, he shall hold office for the remainder of the period for which the previous member was appointed:

*40 of 1961*

*59 of 1963*

*35 of 1964*

*43 of 1964*

*21 of 1965*

*73 of 1965*

*2 of 1968*

*E.L.A.O., 1974*

*5 of 1987*

*15 of 1995*

Short title.

Interpretation.

*E.L.A.O., 1974.*

Constitution of  
Town Planning  
Committee.  
*59 of 1963, s. 4.*  
*25 of 1995, s. 2*  
*and Sch.*

Provided that no person shall be qualified to be appointed or to hold office as a member of the Committee if—

- (a) he is a Minister; or
- (b) he is a member of the public service.

(2) The Governor-General shall appoint one of the members of the Committee to be the Chairman thereof.

(3) In the exercise of the powers conferred upon him by this section the Governor-General shall act on the advice of the Prime Minister.

*73 of 1965, s. 2.*

(4) Three members of the Committee shall constitute a quorum. Where in respect of any question, the members of the Committee are not unanimous, the opinion of the majority shall prevail and in the event of an equality of votes, the member presiding shall have and exercise a casting vote. Subject to the provisions of this Act, the Committee shall regulate its own proceedings.

(5) The Minister may after consultation with the Committee give to the Committee such directions of a general character as to the exercise and performance of its functions under this Act as appear to the Minister to be requisite in the public interest and the Committee shall give effect to such directions.

Director of  
Physical  
Planning.  
*59 of 1963, s. 4.;*  
*E.L.A.O., 1974.*

4. The Governor-General, acting in accordance with the advice of the Public Service Commission, shall appoint an officer to be called the Director of Physical Planning, who shall be the technical adviser to the Minister and the chief executive officer and technical adviser to the Committee.

Authority to  
prescribe areas  
restricting and  
forbidding  
building.  
*59 of 1963, s. 5.;*  
*E.L.A.O., 1974.*

5. It shall be lawful for the Minister by Order to prescribe—

- (a) areas in which after the coming into operation of this Act, new buildings shall be permitted only for the purposes which shall be specified in respect of each area so prescribed in the Order prescribing the area;
- (b) areas within which after the coming into operation of this Act, new buildings shall be permitted for the purpose which shall be prescribed in the Order prescribing the area;

- (c) areas to be used for residential purposes only and for the purpose of this Act all prorate dwelling houses, apartment houses, hotels and other multiple unit buildings for residential use shall be deemed to be used for residential purposes;
- (d) areas which may be used for any purpose specified in the Order prescribing the area; and *73 of 1965, s. 3.*
- (e) areas within which buildings shall be permitted of a size, height, character or for any purpose specified in the Order.

**6.** (1) It shall be lawful for the Minister to appoint for such period, not exceeding three years, as the Minister thinks fit from amongst the members of the Committee or any other qualified persons a special architectural committee whose responsibility shall be to advise the Committee upon the architectural design of the exterior of new buildings and any alterations to the exterior of existing buildings within the area lying to the left of a line running straight as follows: *Appointment and responsibility of special architectural committee.  
35 of 1964, s. 2.  
25 of 1995, s. 2  
and Sch.*

Southwards from the Harbour of Nassau along the centre of West Street to its junction with East Hill Street thence in an easterly direction along the centre of West Hill Street and thence along an imaginary line connecting with the centre line of East Hill Street thence along the centre of East Hill Street to its junction with East Street; thence northwards along the centre of East Street to its junction with Shirley Street thence eastwards along the centre of Shirley Street to its junction with Victoria Avenue; thence northwards along the centre of Victoria Avenue to the Harbour of Nassau and thence westwards along the southern boundary of the Harbour of Nassau to the junction of the centre line of West Street produced northwards to the Harbour.

(2) Properties not included within the above described area and having a frontage or means of access to the streets above named shall be deemed to be within the area described in subsection (1) of this section.

(3) The Committee may, after consultation with the special architectural committee, by order control, regulate or modify the architectural design of any new building or control, regulate or prohibit any alteration to the exterior of any existing building within the area described in subsection (1) of this section. *35 of 1964, s. 2.*

*5 of 1987, Sch.*

(4) Any person failing to comply with an order of the Committee made under subsection (3) of this section shall be liable on summary conviction to a penalty of one hundred dollars.

Illegal to erect or make change in the use of any building without the sanction of the Committee.

7. (1) It shall not be lawful to erect or commence to erect or cause or procure to be erected or commenced any building or to make any material change in the use of any building or land without having first obtained the sanction of the Committee as to the proposed extent, style or architecture, size of the building and the position on the site and as to the use to which the said building or land is to be put having regard to the area in which such building or land is situated.

*73 of 1965, s. 4.*

(2) The Committee may upon application being made for that purpose and after consideration of such information, particulars and plans as may be prescribed, in the first instance grant its sanction in outline as to all or any of the matters provided in subsection (1) of this section, but subject to such conditions as it may think fit to impose.

*73 of 1965, s. 4.*

(3) In any case where a sanction in outline has been granted under the provisions of subsection (2) of this section, the Committee may subsequently upon application being made for that purpose and after consideration of such further information, particulars and plans as the Committee may see fit to require, grant its further sanction in detail in respect of any building or land for which such sanction in outline has already been granted:

Provided that unless otherwise requested in the application made for that purpose, the detailed sanction of the Committee shall conform to the sanction in outline which has already been granted.

*73 of 1965, s. 4.*

(4) The Committee may, in any case in which it may think fit, grant its detailed sanction under the provisions of this section, notwithstanding that no sanction in outline has previously been applied for or granted in respect of any building or land.

Committee to require owner to pull down or reinstate building if section 7 contravened.  
*5 of 1987, Sch.*

8. (1) If upon the receipt of a report from the Director of Physical Planning the Committee is satisfied that any building has been erected or the erection thereof has been commenced or any material change has been made in the use of any building and/or land in contravention of the

provisions of section 7 of this Act the Committee shall require the owner to —

- (a) pull down such building; or
- (b) effect alterations in the building to the satisfaction of the Committee; or
- (c) restore such building and/or land to its original use within such reasonable time not being less than fourteen days as may be determined by the Committee, and upon compliance with the requisition of the Committee no further proceedings shall be taken.

(2) Any person failing to comply with the requisition of the Committee referred to in subsection (1) of this section shall be guilty of an offence against this Act, and shall be liable on summary conviction to a penalty of one hundred dollars.

*5 of 1987, Sch.*

**9.** (1) It shall not be lawful to remove any building from the site on which it stands to a new site without first having obtained the sanction of the Committee as to the new site to which the building is to be removed.

Illegal to remove or demolish any building without sanction of the Committee.

(2) It shall not be lawful to demolish or commence to demolish any building without the sanction of the Committee.

(3) Any person contravening the provisions of subsection (1) of this section shall be liable on summary conviction to a penalty of one hundred dollars.

*5 of 1987, Sch.*

(4) Any person contravening the provisions of subsection (2) of this section shall be liable on summary conviction to a penalty of five hundred dollars.

*5 of 1987, Sch.*

**10.** In considering whether or not to issue its sanction under section 7 or 9 of this Act, the Committee shall hear the application in as judicial a manner as possible having regard to all the circumstances of the particular application.

Committee to act judicially.

**11.** Any person committing an offence against this Act shall be prosecuted summarily by the Minister, or some person duly authorised in writing by the Minister, before a magistrate.

Procedure on prosecution.

Magistrate may, make an order in addition to or in lieu of any penalty which may be imposed.

**12.** (1) Upon the conviction of any person for any offence against this Act the magistrate may, in addition to or in lieu of any penalty which may be imposed make such order as the circumstances of the case may require.

(2) Any such order shall state a reasonable time, not being less than fourteen days, within which such order shall be complied with.

(3) If any person fails to comply with any order made under subsection (1) of this section the Minister may, by his servants, enter upon the premises in respect of which such order has been made and carry out the terms of the order and the owner shall be liable civilly in an action by the Minister for all expenses incurred in carrying out the terms of the said order.

Appeal.

**13.** (1) An appeal shall lie to the Supreme Court from any decision of the Committee and/or the magistrate under this Act.

(2) An appeal against the decision of the Committee shall be on motion. The appellant within twenty-one days after the day on which the Committee has given its decision shall serve a notice in writing signed by the appellant or his counsel and attorney on the Committee of his intention to appeal and of the general grounds of his appeal:

Provided that any person aggrieved by the decision of the Committee may upon notice to the Committee apply to the Supreme Court for leave to extend the time within which the notice of appeal prescribed by this section may be served, and the Supreme Court upon the hearing of such application may extend the time prescribed by this section as it deems fit.

(3) The Committee shall upon receiving the notice of appeal transmit to the Registrar of the Supreme Court without delay a copy of its decision and all papers relating to the appeal.

(4) The Registrar shall set the appeal down for argument on such day, and shall cause notice of the same to be published in such manner, as the Supreme Court may direct.

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(5) At the hearing of the appeal the appellant shall, before going into the case, state all the grounds of appeal on which he intends to rely and shall not, unless by leave of the Supreme Court, go into any matters not raised by such statement.

(6) The Supreme Court may adjourn the hearing of the appeal, and may upon hearing thereof confirm, reverse, vary or modify the decision of the Committee or remit the matter with the opinion of the Supreme Court thereon to the Committee or may make such other order in the matter as it may think just, and may by such order exercised, and such order shall have the same effect and may be enforced in the same manner as if it had been made by the Committee.

(7) Any person aggrieved by an Order of the Governor-General made under the provisions of section 5 of this Act may appeal to the Supreme Court and the provisions of subsections (2) to (6) inclusive of this section shall apply *mutatis mutandis* to any such appeal as they apply to an appeal against a decision of the Committee under this section.

73 of 1965, s. 5.

**14.** (1) This Act shall apply to the Island of New Providence but the Governor-General may from time to time by Order direct that all or any of the provisions of this Act shall extend with such exceptions, adaptations and modifications as may be specified in the Order to any Out Island district or part of an Out Island district to be defined in such Order.

Extension to Out Islands.  
35 of 1964, s. 3.

(2) It shall be lawful for the Governor-General in any such Order to constitute and appoint a Local Committee of not less than five members one of whom, notwithstanding paragraph (a) of the proviso to subsection (1) of section 3 of this Act, may be the Commissioner, who shall hold office at the Governor-General's pleasure and subject to this shall hold office for such period as shall be specified in such Order and one of whom shall be appointed Chairman thereof. A Local Committee so appointed may in any such Order be invested with all or any of the powers and responsibilities of the Committee under this Act within the Out Island district or part of a district for which it is appointed and in any such case the exercise of those powers and the discharge of those responsibilities by the

2 of 1968, s. 2.

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Local Committee shall operate as if the same had been exercised or discharged by the Committee appointed under section 3 of this Act.

*5 of 1987, Sch.* (3) It shall be lawful for the Minister to authorise in writing any person to exercise any of the functions of the Director of Physical Planning in any Out Island district or part of a district to which the provisions of this Act have been extended and the exercise of those functions by such person shall then operate as if the same had been exercised by the Town Planning Officer.

*21 of 1965, s. 2.* (4) An appeal shall lie to the Minister from any decision of a Local Committee appointed under this section and a further appeal shall lie to the Supreme Court from the decision of the Minister thereon. The provisions of section 13 of this Act shall apply to any such appeal to the Supreme Court as if it were an appeal from a decision of the Committee appointed under section 3 thereof.

*Expenses.* **15.** All expenses incurred in carrying out the provisions of this Act shall be paid out of the Consolidated Fund by warrant in the usual manner.

*Rules.* **16.** The Minister may make rules for carrying out the provisions of this Act.