

TOWN AND COUNTRY PLANNING ACT, 1975

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DOMINICA

ACT No. 17 OF 1975.



I assent

L. COOLS-LARTIGUE
Governor.

6th August, 1975.

AN ACT TO MAKE OTHER PROVISION FOR TOWN AND COUNTRY PLANNING.

(Gazetted 14th August, 1975.)

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly of Dominica, and by the authority of the same as follows:—

PRELIMINARY

1. This Act may be cited as the

TOWN AND COUNTRY PLANNING ACT, 1975.

Short title.

2. In this Act, except in so far as the context otherwise requires, the following expressions have the meanings assigned to them respectively:

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 purposes of, advertisement, announcement or direction, and (without prejudice to the preceding provisions of this definition) includes any hoarding or similar structure used, or adapted for use, for the display of advert-

isements, and references 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 the farming of land) the use of land as grazing land, meadow land, osier land, marget gardens and nursery grounds;

“the Minister” has the meaning assigned to it by section 3 of this Act;

“building” includes any structure or erection, and any part of a building, as 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, any demolition of a building, and other operations normally undertaken by a person carrying on business as a builder;

“development” has the meaning assigned to it by section 13 of this Act, and “develop” shall be construed accordingly;

“development plan” in relation to any area shall mean a structure plan or local plan approved by the Minister and in force for that area, including a subject plan approved by the Minister;

“disposal” means any disposal by way of sale, exchange or lease, or by way of creation of any easement or right or privilege, or in any other manner, except by way of appropriation, gift or mortgage, and “dispose of” shall be construed accordingly;

“engineering operations” includes the formation or laying out of means of access to highways;

“erection” in relation to buildings defined in this section includes extension, alteration and re-erection;

“functions” includes powers and duties;

“highway” means a way over which all members of the public have the right to pass or repass and, without prejudice to the generality of the foregoing, may include a footpath, track or other way where only a limited class of persons or vehicles may pass or repass;

“land” includes land covered with water and also includes incorporeal as well as corporeal hereditaments, of every tenure or description including a building, and any interest therein, and also an undivided share of land;

“local authority” means, in relation to the towns of Roseau and Portsmouth, the Roseau Town Council and the Portsmouth Town Council, and, in relation to any other village or place, the village council established for that village or place;

“owner” in relation to any buildings or land, means a person, who is for the time being entitled to dispose of the fee simple of the land, whether in possession or reversion, and includes also a person holding or entitled to the rents and profits of the building or land under a lease or agreement the unexpired term whereof exceeds three years;

“planning decision” means any decision made on an application under Part III of this Act;

“planning permission” means permission under Part III of this Act;

“statutory undertakers” means persons authorised by any enactment to carry on any road transport, air transport, water transport, canal, inland navigation dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of electricity, gas, hydraulic power, water or the disposal of sewage and “statutory undertaking” shall be construed accordingly;

“sub-division” in relation to land means the division of any land other than buildings held under one ownership into two or more parts whether the sub-division is by conveyance, transfer, or partition, or for the purpose of sale, gift, lease or any other purpose, and “sub-divide” has a corresponding meaning.

PART I

ADMINISTRATION

3. For the purposes of this Act there shall be a Minister, and he shall be the Minister for the time being assigned with the responsibility of the town and country planning, and the expression “the Minister” in this Act shall be construed accordingly. The Minister.

4.—(1) For the purposes of this Act there shall be a Planning Authority for the State of Dominica. The Planning Authority.

(2) The Development and Planning Corporation incorporated by the Development and Planning Corporation Act, 1972, are hereby established as the Planning Authority and hereinafter in this Act are referred to as “the Corporation”.

(3) The Development and Planning Corporation Act, 1972, shall have the effect for the purposes of the performance of the functions assigned to the Corporation by the following provisions of this Act and by any corresponding provisions which may be enacted from time to time.

(4) The Corporation shall discharge their functions aforesaid in accordance with the provisions of this Act and those corresponding provisions, but in so doing shall be subject to such rules, orders and directions as the Minister may issue to them for the better administering of this Act and those corresponding provisions.

(5) The Corporation shall from time to time consult local authorities either generally on development applications or in relation to specific cases which show a major departure from a development plan or where such consultation is desirable in the interests of good planning.

PART II

DEVELOPMENT PLANS

Surveys of planning areas.

5.—(1) It shall be the duty of the Corporation to institute such surveys of the State (in whole or in part) as they consider expedient for formulating plans and policies towards the development of the State (in whole or in part) and to keep all such matters under review.

(2) In carrying out their duties under subsection (1) of this section the Corporation may employ agents to carry out the work on their behalf, but at all times the Corporation shall remain responsible for the proper discharge of those duties.

(3) Without prejudice to the generality of the preceding provisions of this section, the matters to be examined and kept under review shall include the following, that is to say—

- (a) the size, composition and distribution of the population of the State;
- (b) the principal, physical, environmental and economic characteristics of the State;
- (c) without prejudice to paragraph (b) of this sub-section the communications transport system and traffic of the State;
- (d) any considerations not mentioned in any of the preceding paragraphs but which may be expected to affect any of the foregoing matters;
- (e) such other matters as the Minister may prescribe;
- (f) any changes already projected in any of the matters referred to in the preceding paragraphs and their likely effect on development in the State;

Minister against the order, section 26 of this Act shall apply to such appeal.

(4) Where permission to develop land is revoked or modified by an order made under the provisions of this section, then if it is shown that any person interested in the land has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification, or has otherwise sustained loss or damage which is directly attributable to the revocation or modification, the Corporation shall pay to that person compensation in respect of that expenditure, loss or damage as assessed in accordance with the provisions of the Land Acquisition Ordinance as modified by section 28 of this Act.

21.—(1) For the purposes of this Act the Corporation shall compile a list of buildings of special architectural or historical interest (hereinafter referred to as “the list”) and may amend the list so compiled.

Buildings and areas of architectural or historic interest.

(2) If it appears to the Corporation that it is expedient for the preservation of any building of special architectural or historic interest, they may for that purpose place the name and the description of that building on the list.

(3) Where it appears to the Corporation that any area is of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance, they shall designate such areas as a conservation area, and such designation shall be deemed to include for the purpose of preserving the character or appearance of the relevant conservation area, the buildings situated therein, such buildings being defined on a map.

(4) Subject to the provisions of this section so long as a building is included in the list or is in a conservation area, no person shall execute, or cause or permit to be executed, any works for the demolition of any such building, or for its alteration or extension, or for the change in any other way of its appearance, except with the prior approval of the Corporation.

(5) Nothing in the preceding sub-section shall render unlawful the execution of any works which are urgently necessary in the interest of safety or health, or for the preservation of the building in question or of neighbouring property, so long as notice in writing of the proposed execution of the works is given to the Corporation as soon as may be after the necessity for the works arises.

(6) The owner and any other person having control of a building which is included in the list or is in a conservation area under subsection (3) of this section, shall be served with a notice giving sufficient particulars to identify any building affected and, as the case may be, the extent of the area affected and stating the effect of this section upon such building or area.

(7) If any works are carried out in contravention of the provisions of sub-section (4) of this section or if the condition of a build-

ing referred to in that sub-section is allowed to deteriorate, the Corporation may serve on the owner and any other person having control of the building, a notice requiring such steps for restoring the building to its former state, as may be specified in the notice, to be taken within such period as may be specified:

Provided that the Corporation shall defray the cost of restoring the building to the required state specified in the notice.

(8) Without prejudice to the provisions of the preceding sub-section, if any person contravenes the provisions of sub-section (4) he shall be guilty of an offence and be liable on conviction to a fine not exceeding five hundred dollars.

Supplementary provisions as to buildings and areas referred in section 21.

22.—(1) Where the owner of a building, which is included in the list under sub-section (1) of section 21 of this Act or is within a conservation area defined in sub-section (3) of the said section, considers that the effect of the listing or inclusion in a conservation area, as the case may be, of the said building is such as to place an unreasonable burden upon him from a financial or any other point of view he may serve a notice on the Corporation requiring that the Corporation purchase his interest in the said building.

(2) If the Corporation are of the opinion that the owner has not suffered an unreasonable burden, then within two months of receipt of the notice served under sub-section (1) of this section they may serve a counter-notice to that effect on the owner and send a copy thereof to the Minister.

(3) Within twenty-eight days of receipt of the copy of the counter-notice, the Minister shall appoint an appeal committee in the manner specified in sub-section (1) of section 26 of this Act and shall refer the matter to that committee for final determination by them and shall at the same time transmit to the owner and the Corporation a copy of the terms of reference of the appeal committee.

(4) The appeal committee shall proceed as soon as practicable to hear, at a time and place convenient to the owner and the Corporation, the contentions and representations made by each of them or on their behalf in respect of the said notice and counter-notice.

(5) On the question whether the owner has suffered an unreasonable burden, the appeal committee shall take into account whether or not the building is reasonably capable of beneficial use in its current use, or could be made so at reasonable expense in accordance with any conditions imposed by the listing or inclusion of the building in a conservation area.

(6) If the appeal committee decide that the owner has suffered an unreasonable burden, then the Corporation shall serve a notice on the owner of the building requiring the compulsory purchase of his interest in the building.

(4) For the purpose of discharging their functions under this section the Corporation shall consult with such other organisations as they consider desirable or as may be directed by the Minister.

(5) The Corporation shall cause such surveys that they undertake to be completed within a reasonable time, and as soon as practicable after the completion of the surveys prepare and send to the Minister a report of their surveys, and take such steps as will in their opinion secure that adequate publicity of such report is given to interested parties in the area concerned.

6.—(1) The Corporation shall from time to time prepare and submit to the Minister for his approval such plans of such types as the Corporation consider necessary for securing the proper planning and development of the State as a whole or for any part of it, or for dealing with some particular aspect of its development.

General provisions as to plans.

(2) Different plans may be submitted at different times but any plan must have regard to any proposals contained in a previously submitted plan or development plan dealing with the same or a contiguous or adjacent area, whether in whole or in part.

(3) Without prejudice to the generality of sub-sections (1) and (2) of this section, the plans referred to in sub-section (1) shall be of the type and in the form specified in section 7, 8, 9, 10 or 11 as the case may be, of this Act.

7.—(1) As soon as practicable after the commencement of this Act the Corporation shall prepare and submit to the Minister for his approval a National Structure Plan hereinafter in this section referred to as "the Plan".

Structure Plan for Dominica.

(2) The Plan shall be a written statement formulating the Corporation's policy and general proposals in respect of the strategic planning and development of the State and in particular shall have regard to the following matters, that is to say—

- (a) the population distribution and economic activity of the State and its likely change;
- (b) the growth and future distribution and functions of the principal communication system, whether by land, sea or air;
- (c) current government policies with respect to economic and social development;
- (d) the resources likely to be available for carrying out any of the proposals contained in the Plan;
- (e) the environmental and physical circumstances of the State;

- (f) the extent of any area required for nature and forestry reserves, major public open spaces and land allocated as being in the national interest for the strategic long term planning of the State.

(3) The plan shall be accompanied by such maps, diagrams, illustrations and descriptive matter as the authority think appropriate for the purpose of explaining or illustrating the proposals in the Plan and which shall be treated as forming part of the Plan.

Regional Structure Plan.

8.—(1) As soon as practicable after the commencement of this Act the Corporation shall prepare and submit to the Minister for his approval such regional structure plans as the Corporation shall think appropriate.

(2) Different regional structure plans may be submitted at different times and may cover such parts of the State as the Corporation think appropriate.

(3) The regional structure plans for any area shall be a written statement formulating the Corporation's policy and general proposals in respect of the area covered by the plan and in particular shall have regard to the following, that is to say—

- (a) proposals for the use and development in general terms of land within the area of the plan;
- (b) the communications network of the area whether by land, sea or air;
- (c) the economic, physical and environmental factors affecting the areas;
- (d) the size and distribution of the population of the area;
- (e) the relationship between the proposals in the plan to other previously submitted plans and development plans;
- (f) the resources likely to be available from both the public and private sectors for carrying out the proposals of the plan.

(4) Any regional structure plan shall be accompanied by such maps, diagrams, illustrations and descriptive matter as the Corporation think appropriate for the purpose of explaining or illustrating the proposals in the plan and which shall be treated as forming part of the plan.

Subject Plans.

9.—(1) From time to time the Corporation shall consider the advisability of formulating subject plans for the State as a whole or for a part thereof as the Corporation may determine and shall prepare and submit such plans to the Minister for his approval.

(2) Such subject plans shall deal with an aspect of the development of the State or a part thereof and shall be a written statement formulating the Corporation's general policy and proposals in respect of the subject covered by the plan and all the implications flowing therefrom.

(3) Any subject plan shall be accompanied by such maps, diagrams, illustrations and descriptive matter as the Corporation think appropriate for the purpose of explaining or illustrating the proposals in the plan and which shall be treated as forming part of the plan.

10.—(1) From time to time the Corporation shall give consideration to the advisability of formulating a local plan for any area and shall prepare and submit such plans to the Minister for his approval. Local Plans.

(2) The local plan for any area shall consist of a map (to an appropriate scale) and a written statement formulating the Corporation's proposals for the development and other use of land in the area covered by the plan and in particular shall have regard to the following, that is to say—

- (a) the function of the area and the vehicle and pedestrian movement network;
- (b) measures for ensuring the provision of a satisfactory environment including such landscaping as may be appropriate and the management of traffic;
- (c) the definition of sites of proposed roads, public and other buildings and works, open spaces, or the allocation of land for the use of agricultural, residential, industrial or other purposes of any class, and the conditions under which such development should be carried out;
- (d) the interrelationship of the matters referred to in paragraph (c) of this sub-section and their effects (if any) on any adjoining or contiguous areas or previously submitted plans or development plans;
- (e) the stages by which such development should be carried out;
- (f) the resources likely to be available for implementing the proposals of the plan.

(3) The written statement of any local plan shall be accompanied by such maps, (to an appropriate scale), illustrations and descriptive matter as the Corporation think appropriate for the purpose of explaining or illustrating the proposals in the plan and which shall be treated as forming part of the plan.

Designation of
Land by Corpora-
tion.

11.—(1) If it appears to the Corporation that it is expedient in the public interest that any area of land should be developed by the Corporation for whatever purpose they deem necessary they shall either designate the said land in an appropriate plan or submit an order to the Minister for his approval identifying the said land for designation.

(2) Sub-section (1) of this section shall apply to the designation of land on the grounds that it is in the public interest for the long term strategic planning of the State, notwithstanding the fact that no development is immediately contemplated and no proposals for the development of the land have been formulated.

(3) The Corporation may define as a comprehensive planning area, either as part of a plan or by separate submission to the Minister any area which in its opinion needs to be planned as a whole for reasons of development, redevelopment or conservation (or partly for one reason and partly for another) and any such area may be designated in accordance with the provisions of sub-section (1) of this section.

(4) As soon as practicable after the designation of any land, except land designated under the provisions of sub-section (2) of this section, or the confirmation of any land as a comprehensive planning area the Corporation shall prepare a local plan for the relevant area, if one does not already exist, showing the manner in which it is to be developed.

Submission to
Minister of draft
plans, orders and
instruments of
definition.

12.—(1) The provisions of this section and Schedule 1 to this Act shall have effect for the purpose of submitting drafts of the following matters to the Minister for his approval, that is to say—

- (a) any plan; or
- (b) an order of designation not forming part of a plan; or
- (c) the definition of a comprehensive planning area not forming part of a plan.

(2) The Corporation shall ensure that adequate publicity is given to the surveys referred to in section 5 of this Act and other matters specified in paragraphs (a), (b) and (c), of sub-section (1) of this Section, to those persons likely to be affected by the said surveys and other matters, and for this purpose the Minister may make regulations governing local publicity.

(3) With regard to any of the matters specified in paragraphs (a), (b) and (c) of sub-section (1) of this section, submitted to the Minister, the Minister shall deal with the matter in any manner he deems appropriate, having regard to any objectives and representations made and the results of any public enquiry, and may either approve, reject or amend (in whole or in part), the plan, draft order,

(7) Upon final determination of the reference under the preceding provisions of this section, the appeal committee shall transmit to the owner and the Corporation a copy of their written reports stating their decision, and the facts, issues and conclusions upon which such decision is based.

(8) For the avoidance of doubt it is hereby provided that in assessing compensation for any acquisition under sub-section (6) of this section, regard shall be paid to the listing of the building to be acquired or the inclusion of the said building within a conservation area, as the case may be, but otherwise the assessment shall be in accordance with the provisions of the Land Acquisition Ordinance as modified by section 28 of this Act.

23.—(1) Where it appears to the Corporation that it is expedient in the interest of amenity to make provision for the preservation of trees or woodlands, they may for that purpose make an order (in this Act referred to as a "tree preservation order") with respect to any such trees, groups of trees or woodlands as may be specified in the order.

Preservation of trees and woodlands.

(2) Without restricting the generality of sub-section (1) any such order may make provision for prohibition (subject to any exemptions for which provision may be made by the order) the cutting down, topping, lopping or wilful destruction of trees except with the consent of the Corporation which may be given subject to conditions.

(3) Copies of a tree preservation order shall be served on the owner and occupier of the land to which it relates within one month of the date on which the order was made.

(4) Without limiting the other exemptions for which, provision may be made by a tree preservation order, no such order shall apply to the cutting down, topping or lopping of trees that are dying or dead or have become dangerous or in order to comply with any obligation imposed by or under any Ordinance or Act or so far as may be necessary for the prevention or abatement of a nuisance.

(5) A tree preservation order shall be binding on the successors in title of the owner on whom a copy of the order was served under sub-section (3) of this section and the making of the order shall be registered against the title of the land to which it relates.

(6) If any person contravenes any of the provisions of a tree preservation order, he shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred dollars.

(7) No compensation shall be payable in respect to the making or the effect of a tree preservation order, but if the owner of the land concerned is aggrieved by the order on the ground that it inter-

feres unreasonably with the current use of the said land he may appeal to the Minister for the removal of the order or for the relaxation of any conditions attached thereto; in respect of such an appeal section 26 of this Act shall apply.

Control of advertisements.

24. For the purposes of this Act the Corporation may by regulation provide that in Dominica as a whole (or in parts thereof) advertisements may be treated as development within the meaning of this Act and thereby require planning permission.

Provisions as to enforcement notices.

25.—(1) Where it appears to the Corporation that there has been a breach of planning control since the coming into force of this section of this Act, then the Corporation if they consider it expedient to do so having regard to the provisions of any development plan or general or special development order in force for any particular area and to any other material considerations, may serve a notice under this section (in this Act referred to as an “enforcement notice”) requiring the breach to be remedied.

(2) There is a breach of planning control if development has been carried out since the coming into force of this section of this Act without the grant of planning permission required by this Act, or if any conditions or limitations subject to which planning permission was granted have not been complied with.

(3) Where an enforcement notice relates to a breach of planning control then the notice may only be served within the period of four years from the date of the breach, or within four years of the coming into force of this section, whichever is the later.

(4) An enforcement notice shall be served on the owner or the occupier of the land to which it relates and on any other person having an interest in that land if in the opinion of the Corporation the interest of such other person is materially affected.

(5) An enforcement notice shall specify—

(a) the matters alleged to constitute a breach of planning control;

(b) the steps required by the Corporation to be taken to remedy the breach;

(c) the period for complying with the notice.

(6) Subject to sub-section (8) of this section, an enforcement notice shall take effect at the end of such period not being less than twenty-eight days after the service of the notice as may be specified in the notice.

(7) The Corporation may withdraw an enforcement notice at any time provided that the steps referred to in paragraph (b) of sub-section (5) of this section have not been complied with.

(8) A person on whom an enforcement notice is served, or any other person interested in the land may within the period referred to in sub-section (6) of this section appeal to the Minister against the notice specifying the grounds of his appeal.

(9) In respect of an appeal under the preceding sub-section, section 26 of this Act shall apply.

(10) If the owner or occupier or other person having an interest in the land fails within the period specified in the enforcement notice to take any steps required by that notice to be taken (other than the discontinuance of use of land) he shall be guilty of an offence and be liable on summary conviction to a fine not exceeding five hundred dollars; and if the offence is continued after conviction he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding fifty dollars for each day on which the offence is continued.

(11) If after an enforcement notice takes effect an owner, occupier, or other person having an interest in the land fails to comply with the notice, the Corporation may carry out work and recover the cost from the owner or, as the case may be the occupier or other person as a simple contract debt.

26.—(1) For the purpose of hearing any appeal under section 19, 20, 23, or 25, of this Act, the Minister shall appoint an appeal committee consisting of three members, one of whom he shall designate as chairman, from a panel of persons constituted in accordance with the provisions of sub-sections (5) and (6) of this section.

Supplementary provisions as to appeals to Minister.

(2) The committee shall give to the appellant and the Corporation, at a time and place convenient to the parties, an opportunity to make representations in a manner to be determined by the committee, and thereafter shall consider the appeal and submit a written report to the Minister stating their recommendations and the facts, issues and conclusions on which such recommendations are based.

(3) As soon as possible after receiving the committee's recommendations, the Minister shall inform the parties in writing of his decision, stating the reasons and grounds for such decision and shall at the same time transmit to the parties a copy of the committee's report.

(4) The decision of the Minister on any appeal referred to in sub-section (1) of this section shall be final.

(5) For the purpose of appointing appeal committees under sub-section (1) of this section, the Minister shall constitute a panel of persons who are either familiar with the land development process or are qualified legal practitioners.

(6) The panel referred to in the preceding sub-section shall consist of not less than six members or more than nine members, and the persons so appointed shall hold office for a period in the first instance not exceeding two years and thereafter, if re-appointed, for a period of two years in respect of each successive appointment.

Provided that a member of the panel may at any time resign his office in writing addressed to the Minister, and the Minister may at any time in writing revoke the appointment of a member of the panel.

(7) The members of the panel shall be paid such remuneration, and receive payment for such expenses necessarily incurred in respect of service as members, as shall from time to time be determined by the Minister.

(8) Subject to the provisions of the next following subsection, the appointment under sub-section (1) of this section of an appeal committee may be for the purpose of hearing:—

- (a) a single appeal;
- (b) a number of appeals;
- (c) all appeals arising under one or more of the sections of this Act specified in subsection (1) of this section.

(9) The appointment of an appeal committee in accordance with the provisions of sections 22 and 33 of this Act shall be for hearing an appeal in the manner and for the purposes specified in those sections and not for hearing an appeal under section 19, 20, 23 or 25 of this Act.

PART IV

ACQUISITION OF LAND AND COMPENSATION

Compulsory acquisition of Land for development and other planning purposes

27.—(1) Any land included within an area designated in accordance with the provisions of section 11 of this Act, which the Corporation propose to acquire for the purpose of performing their functions under this Act, may be acquired in accordance with the provisions of the Land Acquisition Ordinance, as modified by section 28 of this Act, and in relation to such acquisition the purpose aforesaid shall be deemed to be a public purpose.

(2) The Minister may authorise the Corporation to acquire any land compulsorily within their area if he is satisfied:—

- (a) that the land is required in order to secure the treatment as a whole, by development, redevelopment or improvement or partly by one and partly by another method, of the land or of any area in which the land is situated; or

or instrument defining a comprehensive planning area, as the case may be.

(4) The Corporation shall keep under review any development plan and for this purpose may institute such surveys as it thinks fit.

PART III

GENERAL PLANNING CONTROL

13.—(1) In this Act, except where the context otherwise requires, “development”, subject to the following provisions of this section, means 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 subdivision of any land.

Meaning of
Development.

(2) The following operations or uses of land shall not be taken for the purposes of this Act to involve development of land, that is to say—

- (a) the carrying out of any works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially affect the external appearance of the building;
- (b) the carrying out by any road corporation or the Corporation of any works required for the maintenance or improvement of a road, being works carried out on land within the boundaries of the road;
- (c) the carrying out by a local corporation or statutory undertakers, other public body, or the Corporation, of any works for the purpose of repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose;
- (d) the use of any building or other land within the curtilage of a dwelling house for any purpose incidental to the enjoyment of the dwelling house as such;
- (e) the use of any land for the purposes of agriculture and the use for any of those purposes of any building occupied together with land so used;
- (f) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Minister under this section, the use thereof for any other purpose of the same class, and any such order may apply different provisions to different areas;

- (g) the carrying out by the Forestry Division of forestry operations covering cutting, clearing or reafforestation.

Interim Development Orders.

14.—(1) Prior to the coming into force of any plan, general development order or special development order the Corporation may by an interim development order specify those classes of development *which will not require planning permission*.

(2) Such an interim development order shall apply in such areas as the Corporation may direct, and may apply to different classes of development within the State as a whole, or in respect of different areas within it.

(3) From time to time the Corporation shall consider the advisability of amending, extending or revoking any interim development order, either as a whole or in part, relating to classes of development or areas of control.

(4) Without prejudice to the provisions of the preceding subsection, as soon as any plan has been approved by the Minister the Corporation shall revoke any interim development order covering any area which is included in the area covered by the plan so approved.

Development orders.

15.—(1) Subject to the provisions of this section and to any interim development order made under the provisions of the preceding section, planning permission is required for the carrying out of any development of land.

(2) The Minister may by a development order specify categories of development for which permission is not required notwithstanding that development as defined in subsection (1) of section 13 is undertaken, and such an order may apply different provisions to different parts of the State.

(3) A development order may either—

- (a) itself grant planning permission for development specified in the order, or development of any class so specified or
- (b) provide in respect of specified classes of development located in certain specified areas for the granting by the Corporation of planning permission on a simplified application only following which development can take place.

(4) Where an application for outline planning permission in respect of such types of development or areas as may be specified in the application is made, to, and granted by, the Corporation development of the land concerned may not be commenced until after the grant by the Corporation of a further development appli-

cation which gives such particulars as are prescribed or directed under the provisions of section 16 of this Act and which were not particularised in the application for outline planning permission.

(5) A development Order may specify the form and nature of the conditions that can be applied to the grant of any planning permission and may provide for different conditions for different classes of development or for development in different areas.

(6) A development order may be made either as a general development order applicable (subject to such exceptions as may be specified therein) to all land, or as a special development order applicable to such land as may be specified in the order.

(7) Without prejudice to the generality of the preceding provisions of this section where planning permission is granted by a development order for development of a specified class, the order may enable the Corporation to direct that the permission shall not apply either in relation to development in a particular area or in relation to any particular development.

16. Any application to the Corporation for planning permission shall be made in such manner as may be prescribed by the Corporation and shall include such particulars, and be verified by such evidence, as may be required by regulations made or by directions given by the Corporation thereunder.

Applications for planning permission.

17.—(1) On any application for planning permission, the Corporation in dealing with the application shall have regard to the provisions of any submitted plan or development plan, general or special development order, interim development order and any other material considerations and—

Determination of applications for planning permission.

- (a) may grant planning permission either unconditionally or subject to such conditions as they think fit; or
- (b) may refuse planning permission. Provided that where an application constitutes a departure from any plan or order the Corporation may call evidence and consult adjoining occupiers.

(2) In dealing with application for planning permission the Corporation shall issue a decision within four months of receiving the application, and if it fails to do so, then the application shall be deemed to have been granted subject only to the standard conditions as set out in the relevant general or special development order.

Provisions as to effect of planning permission.

18.—(1) Any grant of planning permission shall (except in so far as such permission otherwise requires) ensure for the benefit of the land and all persons for the time being interested therein, except that the Corporation at their discretion may impose a condition requiring the development to be commenced or completed within a specified time after which time if the development has not been commenced or completed, as the case may be, the planning permission will be deemed to be of no effect. Provided that if a reasonable explanation is made for the failure to carry out the development in the time prescribed, the permission may be extended for such period as the Corporation considers reasonable.

(2) For the purposes of this section every planning permission granted shall contain a condition that the development to which it relates must be commenced before the expiration of five years beginning with the date on which permission is granted:

Provided that the Corporation may impose such other period less than five years as they consider appropriate.

(3) The Corporation shall keep a register containing all applications for planning permission and the manner in which they have been dealt with, and the register shall be available for inspection by members of the public during normal working hours.

Appeals against planning decisions.

19.—(1) Where an application is made to the Corporation for planning permission to develop land or for the approval of the Corporation that is required under a development order, and that permission or approval is refused or is granted subject to conditions the applicant, if he is aggrieved by their decision, may appeal in writing to the Minister within three months of the giving of the decision.

(2) Section 26 of this Act shall apply to any appeal under this section.

Power to revoke or modify planning permission.

20.—(1) If it appears to the Corporation, having regard to any submitted plan or development plan and to any other material considerations, that it is expedient to revoke or modify any permission given to develop land granted on an application under this Part of this Act, the Corporation, subject to the following provisions of this section, may by order revoke or modify the permission to such extent they consider desirable.

(2) An order under this section shall not have effect unless and until it is confirmed by the Minister.

(3) Where the Corporation submit an order to the Minister for his confirmation, they shall serve notice on the owner and on the occupier of the land affected; and if within the time specified in the notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served appeals in writing to the

- (b) that it is expedient in the public interest that the land should be held together with land so required; or
- (c) that the land is required for development or redevelopment, or both, as a whole for the purpose of providing for the relocation of population or industry or the replacement of open space in the course of the redevelopment or improvement, or both, of another area as a whole; or
- (d) that it is expedient to acquire the land immediately for the purpose for which it is necessary in the interests of the proper planning of an area in which the land is situated,

and if such authorisation is given then the acquisition shall be in accordance with the provisions of the Land Acquisition Ordinance as modified by section 28 of this Act. Cap. 170.

(3) In respect of any acquisition under this section, the authorised officer for the purposes of the Land Acquisition Ordinance shall be such person as may be nominated by the Corporation from time to time. Cap. 170.

28.—(1) Any compensation payable by the Corporation shall be assessed in accordance with the provisions of the Land Acquisition Ordinance as modified by the following provisions of this section. General provisions as to assessment of compensation.
Cap. 170.

(2) In ascertaining the value of the interest in the land concerned no account shall be taken of any increase in the value of the interest which is attributable to the construction by the Corporation (or other public agency) of any road, sewer, water main or other form of engineering or other work and any development relating thereto, or the prospects of any such work or development being carried out, or of any prospective use of that land which would involve the carrying out of new developments.

(3) The compensation payable for such an interest in land shall be the value as ascertained in accordance with the provisions of subsections (1) and (2) of this section, and payment of such compensation may, with the approval of the Minister be made whether in money or in bonds or in both money and bonds.

(4) For the purpose of this section, bonds include bonds or debentures issued under the Corporation of any law in force in Dominica, where the principal moneys and interest represented by such bonds or debentures are payable out of the general revenues and assets of Dominica.

(5) Without prejudice to the generality of subsection (1) of this section, the Corporation may acquire land by compulsory acquisition on behalf of some other person or body of persons if the purpose of the acquisition is in the view of the Corporation necessary in the proper planning of the area.

Extinguishment of rights over land compulsorily acquired.

29.—(1) Subject to the provisions of this section upon the completion by the Corporation of a purchase of land either by agreement or compulsory powers all private rights of way and rights of laying down, erecting, continuing or maintaining any apparatus on, under or over the land shall be extinguished, unless otherwise stipulated, and any such apparatus shall vest in the Corporation.

(2) Sub-section (1) of this section shall not apply to any right vested in, or apparatus belonging to statutory undertakers for the purpose of the carrying on of their undertakings.

(3) Any person who suffers loss by the extinguishment of a right or the vesting of any apparatus under this section shall be entitled to compensation from the Corporation as determined in accordance with the provisions of the Land Acquisition Ordinance as modified by section 28 of this Act.

Powers of Authority to dispose of land owned.

30. Where any land has been acquired by the Corporation, or land has been transferred to the Corporation by any Government Department, the Corporation may dispose of the land to such persons or in such manner and subject to such conditions as may appear to them to be in the public interest, subject to the consent of the Minister.

Development of land held for planning purposes.

31.—(1) The functions of the Corporation shall include the power for the Corporation to erect, construct, or carry out any buildings, engineering works, or operations, or other works on any land to which this section applies.

(2) The functions of the Corporation shall include power for the Corporation to repair, maintain or insure any buildings or works on land to which this section applies, and generally to deal therewith in a proper course of management.

(3) This section applies to any land which is for the time being owned by the Corporation or of which they have control.

Provision for partnership between Authority and land-owners.

32.—(1) In respect of any designated area the Corporation shall from time to time give consideration to the desirability of carrying out their functions for the implementation of any development of any land within that area, on a partnership basis with the owners of that land.

(2) In any case where the Corporation have resolved to proceed with such a partnership basis arrangement under the provisions of the preceding sub-section, the Corporation may by agreement enter into partnership with the owners of the relevant land on such terms as may be approved by the Minister.

(3) If it appears to the Corporation expedient so to do, they may require the setting up of a partnership between the Corporation

and the owners of the relevant land for the purpose set out in subsection (1) of this section and, with the approval of the Minister, may issue regulations prescribing the manner in which the setting up of such partnership shall be effected and the rights, roles and duties of the partners.

33.—(1) Where, on an application for planning permission to develop any land, permission is refused or is granted subject to conditions, then if the owner of the land claims:—

Purchase notice on refusal or conditional grant of planning permission.

- (a) that the land has become incapable of reasonably beneficial use in its existing state; and
- (b) in a case where planning permission was granted subject to conditions, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of the permitted development in accordance with those conditions; and
- (c) in any case, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of any other development for which planning permission has been granted or for which the Corporation or the Minister has undertaken to grant planning permission,

he may, within the time and in the manner prescribed by regulations made by the Minister, serve on the Corporation a notice (hereinafter in this section referred to as a "purchase notice") requiring them to purchase his interest in the land in accordance with the following provisions of this section.

(2) If the Corporation are of the opinion that the said land has not been rendered incapable of reasonably beneficial use, then within two months of receiving the purchase notice they may serve a counter-notice to that effect on the owner and they shall at the same time transmit to the Minister a copy of the purchase notice and of the counter-notice.

(3) Within twenty-eight days of the receipt by him of the copies transmitted in accordance with subsection (2) of this section, the Minister shall appoint an appeal committee in the manner specified in subsection (1) of section 26 of this Act and shall refer the matter to that committee for final determination and shall at the same time transmit to the owner of the said land and the Corporation a copy of the terms of reference of the appeal committee.

(4) The appeal committee shall proceed as soon as practicable to hear, at a time and place convenient to the said owner and the Corporation, the contentions and representations made by each of them or on their behalf in respect of the purchase notice and counter notice.

(5) Where, for the purpose of determining whether the conditions specified in sub-section (1) (a) to (c) of this section are fulfilled in relation to the said land, any question arises as to what is or would in any particular circumstances be a reasonably beneficial use of that land, then in determining that question for that purpose, no account shall be taken of any prospective use of that land which would involve the carrying out of new development.

(6) If the appeal committee decide that the land aforesaid has been rendered incapable of reasonably beneficial use, then the Corporation shall serve a notice on the owner thereof requiring the compulsory purchase of his interest in that land.

(7) Upon final determination of the reference under the preceding provisions of this section, the appeal committee shall transmit to the owner of the said land and the Corporation a copy of their written report stating their decision, and the facts, issues and conclusions upon which such decision is based.

(8) The provisions of the Land Acquisition Ordinance as modified by section 28 of this Act shall apply to the compulsory purchase of land under this section.

Provision for
betterment
charge.

34.—(1) On the grant of any planning permission for development there shall be paid, by the person proposing to undertake the development, to the Corporation a betterment charge calculated in accordance with regulations made by the Minister.

(2) The Corporation may by regulation make provision regarding the method for the payment of the betterment charge referred to in the preceding subsection, including payment by instalments, and such regulations may also make provision for the exemption from payment of the charge of such classes of development as may be specified therein.

(3) The provisions of this section shall not apply to land owned by the Corporation or which they propose to acquire or in respect of which a partnership arrangement has been made in accordance with the provisions of section 32 of this Act.

PART V

MISCELLANEOUS

Highways
affected by
development;
orders by
Minister.

35.—(1) The Minister may upon application by the Corporation authorise by order the stopping up or diversion of a highway if he is satisfied that it is necessary to do so in order to enable development to be carried out in accordance with any planning permission granted, or if it is in the interest of the proper planning of the area.

(2) The Minister may upon application by the Corporation authorise by order the prohibition of one or more classes of vehicles from any highway, if he is satisfied that it is necessary to do so in the interests of proper planning of the area; and the Corporation having regard to the nature of the prohibition may thereafter lay out the land and provide such facilities for the highway as they think necessary.

(3) The provisions of Schedule 2 to this Act shall have effect with respect to the procedure relating to the making of orders under sub-sections (1) and (2) of this section.

(4) In making orders under sub-sections (1) and (2) of this section the Minister may impose such conditions as he thinks fit.

36.—(1) Any person duly authorised in writing by the Corporation may at any reasonable time enter upon any land for the purpose of surveying it or estimating its value or inspecting it in connection with any of the provisions of this Act or of any order or regulation made thereunder. Rights of entry.

(2) Any person authorised under the preceding sub-section to enter upon any land shall, if so required, provide evidence of his authority before so entering, and shall not demand admission as of right to any land without first giving three days notice of the intended entry.

37.—(1) Any notice, summons, writ or other proceeding by law or otherwise required to be served on the Corporation for any of the purposes of this Act may be served upon them by delivering it to their secretary-manager, or by leaving it at their office with some person employed there, or by sending it by post in a registered letter addressed to the Corporation or their secretary-manager at their office. Service of notices.

(2) Subject to the provisions of this section any notice or other document required or authorised to be served or given under this Act on or to a person other than the Corporation 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; or
- (b) by leaving it at the usual or last known place or abode of that person, or, in a case where an address for service has been given, at that address; or
- (c) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode; or in a case where an address for service has been given by that person, at that address; or

- (d) in the case of an incorporated company or body by delivering it to, or sending it in a prepaid registered letter addressed to the secretary or clerk of the company or body at their registered or principal office; or
- (e) by affixing it conspicuously to some object on the land and addressed to that person either by name or by the description of "the owner" or "the occupier" as the case may be.

(3) If any notice is given or served under the provisions of sub-section (2) of this section conclusive evidence shall be deemed to be given by the Corporation duly signing a document to this effect in the presence of a qualified legal practitioner.

(4) For the purposes of bettering the administration of this Act the Corporation may require any person to state in writing the nature of his interest in any land, and the nature of the interest of any other person whom he reasonably suspects of having an interest in any land.

Power of Corporation to administer certain Ordinances. Ord. No. 21 of 1966.

38.—(1) For the purpose of administering the Beach Control Ordinance the Corporation under this Act shall be the competent authority for administering the said Ordinance and the expression "the Corporation" shall be substituted for "the Minister" wherever this appears in that Ordinance.

Ord. No. 17 of 1966.

(2) For the purpose of administering the Roseau Land Control Ordinance the Corporation under this Act shall be the competent authority for administering the said Ordinance and the expression "the Corporation" shall be substituted for the words "the Administrator in Council" and "the Secretary and Chief Technical Officer, Central Housing and Planning Authority or his nominee" wherever those words appear in that Ordinance.

Repeals and savings.

Cap. 181.

39.—(1) Upon the date of the coming into force of this Act the Town and Country Planning Ordinance shall cease to have effect, save as provided for in sub-section (2) of this section, except that anything lawfully done or carried out under the provisions of the said Ordinance shall not be affected by its repeal.

Cap. 181.

(2) Until the provisions of sub-section (2) of section 40 of this Act have effect, Parts I, II, III, and IV of the Town and Country Planning Ordinance shall continue to be operative so far as applicable to existing schemes or resolutions and interim development, save that no new schemes may be made under the provisions of that Ordinance.

Commencement.

40.—(1) Except as provided for in sub-section (2) of this section, the provisions of this Act shall come into effect on the 1st day of August, 1975.

(2) The provisions of Part III of this Act relating to general planning control shall come into effect on a date to be appointed by the Minister, which date shall not be earlier than that specified in sub-section (1) of this section.

SCHEDULE A

PROVISIONS AS TO MATTERS REFERRED TO IN SECTION 12

1. Where the Corporation proposed to submit one or more of the matters referred to in paragraphs (a) to (c) of sub-section (1) of section 12 of this Act to the Minister they shall prepare a draft of the plan, order or instrument of definition, describing the area affected by reference to a plan (to an appropriate scale), together with such descriptive matter as they deem necessary, together with a statement indicating the size and general character of the areas as aforesaid.

2. Prior to the confirming of any plan, order or instrument of definition, the Minister shall in the *Gazette* and at intervals of not less than seven nor more than ten days in three issues of a newspaper circulating in the State publish a notice:—

- (a) stating that a draft plan, order or instrument of definition has been prepared by the Corporation and is about to be considered by the Minister;
- (b) describing the area to be covered;
- (c) naming a place within the said area or near thereto as may be convenient where a copy of the draft plan, order or instrument of definition (including any plan or descriptive matter annexed thereto) and of the statement required by paragraph 1 may be inspected on such days and at such hours as may be specified in the notice;
- (d) specifying the time (not being less than twenty-eight days after the publication of the notice in the *Gazette*) within which, and the manner in which, objections or representations to the draft plan, order or instrument or definition may be made, and shall, not later than the date on which the notice is published in the *Gazette*, serve a like notice on any local authority, village council or statutory undertaker which appears to him to be concerned with the order.

3. If any objections or representation is duly made to the draft plan, order or instrument of definition, the Minister shall, before confirming the said plan, order or instrument of definition, consider such objection or representation and may hold such enquiry with respect thereto as may appear to him necessary.

4. Subject to the provisions of paragraph 3 the Minister may confirm the plan, order or instrument of definition either in terms of the draft or subject to such modifications as he thinks fit:

Provided that, except with the consent of all persons interested the Minister shall not make the order subject to a modification including in the area of the plan, order or instrument of definition any land not included in the area described in accordance with paragraph 1.

5. As soon as may be after the plan, order or instrument of definition has been confirmed or modified the Minister shall publish in a newspaper circulating in the State a notice stating that the plan, order or instrument of definition has been confirmed and serve a like notice:—

- (a) on any local authority, village council or statutory undertaker on whom notice of the draft was served under paragraph 2;
- (b) on any other person who has duly made an objection or representation to the draft and at the time of making it or thereafter has sent to the Minister a request in writing to serve him with the notice required by this paragraph, specifying an address for service.

SCHEDULE 2

PROCEDURE FOR MAKING ORDERS UNDER SECTION 35

1. Before making an order under section 35 of this Act the Minister shall publish in the *Gazette* and at intervals of not less than seven nor more than ten days in three issues of a newspaper circulating in the State a notice—

- (a) stating the general effect of the order;
- (b) naming a place within the locality of the highway affected where a copy of the draft order (including any plan or descriptive matter annexed thereto) may be inspected on such days and at such hours as may be specified in the notice;
- (c) specifying the time (not being less than twenty-eight days after the publication of the notice in the *Gazette*) within which, and the manner in which, objections to the draft order may be made.

2. Not later than the date on which the said notice is published as aforesaid, the Minister shall serve a copy thereof (together with

any relevant maps, plans or descriptive matter) upon every local authority, village council or statutory undertaker likely to be affected by the making of the order.

3. Not later than the date on which the said notice is published as aforesaid the Minister shall cause a copy thereof to be displayed in a prominent position at the ends of so much of any highway as is proposed to be stopped up or diverted under the order.

4. If any objection is duly made to the draft order and is not withdrawn the Minister shall before the making of the order, consider such objection and may hold such enquiry with respect thereto as may appear to him to be necessary.

5. As soon as may be after an order has been made the Minister shall publish in a newspaper circulating in the State a notice stating that the order has been made and serve a like notice—

- (a) on any local authority, village council or statutory undertaker on whom notice of the draft order was served under paragraph 2;
- (b) on any other person who has duly made an objection to the draft order and at the time of making it or thereafter has sent to the Minister a request in writing to serve him with the notice required by this paragraph specifying an address for service.

Passed in the House of Assembly, this 24th day of July, 1975.

MARIE DAVIS PIERRE
Clerk of the House of Assembly.

M.P. Leg/6-04A.

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