

COMMONWEALTH OF DOMINICA

ARRANGEMENT OF SECTIONS

SECTION

PRELIMINARY

1. Short title.
2. Interpretation.

PART I

GENERAL

3. Objects and purposes of Act.

PART II

ADMINISTRATION

4. Physical Planning and Development Authority.
5. Chief Physical Planner.
6. Exercise of functions of Chief Physical Planner.
7. Limitation of personal liability.

PART III

DEVELOPMENT PLANS

8. Proposal for development plan.
9. Scope and preparation of development plan.
10. Public participation.
11. Consideration of draft development plan.
12. Approval of development plan.
13. Rejection of development plan.
14. Deposit of approved plan.

SECTION

15. Modification or revocation of plan.
16. Legal status of development plans.

PART IV

MANAGEMENT OF DEVELOPMENT OF LAND

17. Permission required to develop land.
18. Types of development permission.
19. Application for development permission.
20. Requirement for further information.
21. Proof of ownership.
22. Publicity of applications.
23. Environmental impact assessment.
24. Consultation on application.
25. Material considerations.
26. Determination of applications.
27. Applications inconsistent with development plan.
28. Conditions of development permission.
29. Development agreements.
30. Performance bonds.
31. Lapse of development permission.
32. Supplementary provisions as to grant of development permission.
33. Minor variation of development permission.
34. Modification or revocation of development permission.
35. Reference of application.

PART V

COMPLIANCE

36. Compliance notice.
37. Material planning considerations with respect to compliance notices.

SECTION

38. Notice to apply for development permission.
39. Suspension of effect of compliance notice.
40. Stop order.
41. Injunctions.
42. Action by authority for non-compliance with compliance notice.
43. Appeal against compliance notice.
44. Continuing operation of compliance notice.
45. Notice requiring discontinuance of use, alteration or removal of building or works.

PART VI

ENVIRONMENTAL PROTECTION

46. Compliance of a list of buildings.
47. Building preservation orders.
48. Purchase notice with respect to buildings subject to building preservation order.
49. Plant preservation order.
50. Amenity orders.
51. Appeal against amenity orders.
52. Public access for recreational purposes.
53. Public access and right of way to beaches.
54. Control of advertisements.
55. Supplementary provisions as to advertisements.
56. Environmental protection area.
57. Environmental protection area order.
58. Land in environmental protection areas.
59. Environmental protection area management plan.
60. Designation of special resource and use areas.
61. Ministerial order to protect the Environment.

SECTION

PART VII

BUILDING REGULATIONS

- 62. Application for building control.
- 63. Building Regulations.
- 64. Appointment of building inspectors.
- 65. Passing and rejection of plans.
- 66. Power to require removal or alteration of work.
- 67. Appeal against notices.
- 68. Lapse of deposit of plans.

PART VIII

COMPENSATION AND ACQUISITION

- 69. Claim for compensation.
- 70. Position where land is subject to mortgage.
- 71. Registration of claim for compensation.
- 72. Acquisition of land in lieu of compensation.
- 73. Purchase notice with respect to adverse decisions.

PART IX

APPEALS

- 74. Establishment of Appeals Committee.
- 75. Right of appeal.
- 76. Procedure at public inquiries.
- 77. Record of proceedings of public inquiries.
- 78. Appeals by written representations.
- 79. Decision and notification of appeal.
- 80. Appeals to the High Court.

SECTION

PART X

MISCELLANEOUS AND SUPPLEMENTARY

81. Powers of entry.
82. Service of notices.
83. Power to require information.
84. Register of planning decisions.
85. Notification of Registrar of Titles.
86. Death of person having claim or right.
87. Offences.
88. Regulations.
89. Repeal.
90. Act binds state.

SCHEDULE I

SCHEDULE II

COMMONWEALTH OF DOMINICA

ACT NO. 5 OF 2002

I assent



VERNON L. SHAW
President

9th May, 2002

AN ACT TO MAKE PROVISION FOR THE ORDERLY AND PROGRESSIVE DEVELOPMENT OF LAND IN BOTH URBAN AND RURAL AREAS AND TO PRESERVE AND IMPROVE THE AMENITIES THEREOF; FOR THE GRANT OF PERMISSION TO DEVELOP LAND AND FOR OTHER POWERS OF CONTROL OVER THE USE OF LAND; FOR THE REGULATION OF THE CONSTRUCTION OF BUILDINGS AND RELATED MATTERS; TO CONFER ADDITIONAL POWERS IN RESPECT OF THE ACQUISITION AND DEVELOPMENT OF LAND FOR PLANNING PURPOSES AND FOR OTHER MATTERS CONNECTED THEREWITH.

(Gazetted 16th May, 2002).

BE IT ENACTED by the Parliament of the Commonwealth of Dominica as follows:

PART 1
PRELIMINARY

Short title.

1. This Act may be cited as the -

PHYSICAL PLANNING ACT, 2002.

Interpretation.

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

“adjoining land” means that portion of land extending a distance of one hundred feet landward from the spring high water mark, or where the land to that distance includes a cliff, to a distance of fifty feet landward from the seaward edge of the cliff top; and wherever land is extended into the sea by or as a result of filling, dredging or other man-made alteration the landward boundary of the adjoining land shall remain at the line established;

“advertisement” means any word, letter, model, sign, placard, board, notice, awning, blind, balloon, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purpose of, advertisement, announcement or direction, or calling attention to any person, matter, object or event, and (without prejudice to the preceding provisions of this definition) includes any hoarding, billboard, wall, fence, or similar structure used, adapted, designed, or intended for use, for display of advertisement;

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

the use of land for fish-farming and “agricultural” shall have a corresponding meaning;

“amenity order” means an order made under section 50;

“Appeals Committee” means the Appeals Committee established under section 75;

“Authority” means the Physical Planning and Development Authority established under section 4;

“beach” means that area of the coastal zone from the seaward line of the foreshore running inland to the vegetation line or other natural barrier whichever is closer to the foreshore; and a beach may consist of sand, stones, gravel, coral fragments or boulders;

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

“building” includes any erection or structure, including chattels or movable structures in, on, over or under any land and any part of a building so defined (but does not include plant or machinery comprised in a building), any erection or structure permanently attached to the sea bed, or temporarily so attached for the purpose only of the exploitation of minerals in, on or under the sea bed;

“building inspectors” means persons appointed as building inspectors under the provisions of section 64;

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

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

“building permit” means a written notice that building plans have been passed in accordance with section 65;

“building preservation order” means an order made under section 47;

“building regulations” means regulations made under section 63 and a reference to Building Regulations, in a particular case in relation to which a requirement of Building Regulations is for the time being dispensed with, waived, relaxed or modified, is a reference to building regulations as they apply in that case unless the context otherwise requires;

“Chief Physical Planner” means the person appointed under section 6;

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

“coastal waters” means the sea, and those waters adjacent to the landward limit of the adjoining land or connected permanently or intermittently with the sea which contain a measurable quantity of sea water, including sounds, bays, lagoons, ponds and estuaries, and the land below and along the banks of the waters;

“coastal zone” means all lands and waters of Dominica contained within the area bounded by the outer limit of the territorial sea and by the landward limit of the adjoining land, and includes coastal waters;

“compliance notice” means a notice issued under section 36;

“State land” means any land which belongs to and is vested in the State;

“development” means the carrying out of building, engineering, mining or other operations in, on, over or under any land,

the making of any material change in the use of any building or land or the sub-division of land, provided that the following shall not be deemed to constitute development -

- (a) work for the maintenance or other alteration of any building, if the work affects only the interior thereof and does not materially affect the external appearance of the building;
- (b) work carried out by the Government or a local Government Authority for the maintenance or improvement of a road;
- (c) work carried out with the approval of the Government or by statutory agency for the purpose of inspecting, repairing or renewing any sewers, water mains, electric mains, cables or other apparatus, including the excavation of any road or other land for that purpose;
- (d) the use of any building or other land within the curtilage of a dwelling house for purposes incidental to the enjoyment of that dwelling house as such;
- (e) the use of land for the purposes of agriculture or forestry, but not including any building or engineering activity thereon or the operations of a saw-mill;
- (f) the erection of gates, fences, walls or other means of enclosure, not being adjacent to a highway or the sea, not exceeding three feet six inches in height and not constructed of asbestos, plastic, fibre glass or sheet metal;
- (g) the enlargement, improvement or other alteration of a dwelling house, provided that-
 - (i) the square footage of the enlargement does not exceed one tenth of the square footage of the

ground floor of the house at the date of the development or of the house at the commencement of this Act, whichever is the larger;

- (ii) the enlargement is single story;
- (iii) the enlargement is an integral part of the existing house;
- (iv) the enlargement complies with the requirements of any planning and building regulations for the time being in force; and
- (v) written notice of intention to carry out such work is given to the Authority through the Chief Physical Planner;

“development permission” means permission for development given under the provisions of Part IV;

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

“discontinuance notice” means a notice issued under section 45;

“dwelling house” means a set of premises constructed for use for the purpose of a dwelling but does not include a building containing one or more flats, apartments, condominiums or townhouses, or a flat, apartment, condominium or townhouse contained in such a building;

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

“environment” means all or any of -

- (a) the media of land, water and air, including all layers of the atmosphere;

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- (b) organic and inorganic matter and living organisms;
 - (c) the interacting systems that include components referred to in paragraphs (a) and (b);

within the territorial jurisdiction and control of Dominica;

“environmental impact assessment” means:

- (a) the process of collection, analysis, evaluation and review of information on the likely effects of a proposed development on the environment and the means to overcome adverse effects; or
- (b) the document or series of documents which contain the information on the likely effects of the proposed development on the environment and the means to overcome adverse effects required by section 23;

“environmental protection area” means any area declared to be an environmental protection area under section 57;

“fish farming” means the breeding, rearing or keeping of fish or shellfish which involves the placing or assembly of any pen, cage, tank, pond or any other structure in any part of inland or coastal waters or in, on or over any land for the purpose of fish farming;

“foreshore” means the portion of the land of Dominica which lies between the mean low watermark and the mean high watermark of the sea;

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

“land” means any corporeal hereditament including a building as defined in this section and other things permanently affixed

to land and includes the foreshore, sea bed and land covered by water within the boundaries of the territorial sea of Dominica;

“lawful use” does not include use of any building or other land which was commenced in contravention of the provisions of this Act or of earlier planning control;

“means of access” includes any means of access whether private or public for vehicles or for pedestrians and includes a street or road;

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

“mining operation” means -

(a) to carry out in relation to any mineral, any activity with a view to working, carrying away, treating or converting that mineral;

(b) to search or explore for any mineral with a view to carrying out any activity mentioned in paragraph (a) of this definition and to carry out any work necessary for such search or exploration; or

(c) the deposit of waste or refuse materials in consequence of or incidental to any activity mentioned in paragraph (a) or (b) of this definition;

“Minister” means the Minister responsible for physical planning;

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

“owner” in relation to any land, means a person who is for the time being -

(a) the estate owner in respect of the fee simple in the land; or

(b) entitled to a tenancy of the land granted for a term of years certain of which not less than 10 years remain unexpired;

“permitted development” means development which is authorised under section 17 (2);

“plant” includes any flower, shrub, tree and any herb, grass, lichen, moss or other vegetation;

“plant preservation order” means a plant preservation order made under section 49;

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

“purchase notice” means -

- (a) in section 48 a purchase notice with respect to building subject to a building preservation order;
- (b) in section 73 a purchase notice with respect to adverse decisions namely -
 - (i) refusal of development permission in circumstances where no development permission is available with respect to that land;
 - (ii) a revocation or modification notice;
 - (iii) a discontinuance notice;
 - (iv) a public access notice;
 - (vi) an environmental protection area order;

“Regulations” means Regulations made under this Act;

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

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

“sea” means the Caribbean Sea, the Atlantic Ocean, and all areas subject to tidal action through any connection with the Caribbean Sea or the Atlantic Ocean;

“sea bed” means the floor and subsoil of the sea between mean low watermark and the seaward limits of the territorial waters of Dominica;

“sub-division” means the division of a parcel of land other than buildings held under one ownership into two or more parts whether such division is by conveyance, transfer, assignment, vesting order, plan of survey, plan of sub-division, or any other instrument for the purpose of sale, gift, partition, succession, lease, mortgage or for any other purpose and such sub-division constitutes development whether or not the use for which the sub-divided land is intended constitutes development and “sub-divide” shall be construed accordingly;

“unauthorised development” means any development for which a grant of development permission has not been obtained and which is not permitted development authorised under section 17 (2) or development which is not in accordance with the conditions or limitations subject to which development permission was granted;

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

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

(2) For the avoidance of doubt it is hereby declared that -

(a) the use for the display of an advertisement, of any land or of the external part of a building, which is

not ordinarily used for that purpose, shall be deemed to involve a material change in the use of that land or part of the building;

- (b) the use as two or more separate premises for the purpose of dwelling of any building previously used as one dwelling house involves a material change in the use of that building and of each part thereof so used; and
- (c) the deposit of any waste material on land involves a material change in the use of the land, notwithstanding that the deposit is on a site which has been previously so used, if either the superficial area thereof or the height of the deposit is thereby extended or exceeds the level of any similar deposit on adjacent land

3. (1) The objects and purposes of this Act are -

Objects and purposes of Act.

- (a) to foster the awareness that all persons and organisations owning, occupying and developing land have a duty to use that land with due regard for the wider interests both present and future of society as a whole;
- (b) to maintain and improve the quality of the physical environment within which patterns of human settlement are situated in Dominica;
- (c) to achieve orderly, economical and beneficial development and use of land and patterns of human settlement;
- (d) to assist in the orderly, efficient and equitable planning, allocation and development of the resources of Dominica taking account of all relevant social, economic and environmental factors so as to ensure that the most efficient, equitable and environmentally sustainable use is made of land in the interests of all the people of Dominica;

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- (e) to provide for the orderly sub-division of land and the provision of services in relation thereto;
 - (f) to protect and conserve the cultural heritage of Dominica as it finds expression in the natural and the built environment;
 - (g) to secure the health, safety, welfare and convenience of persons in or about buildings and of others who may be affected by buildings or matters connected with buildings; and
 - (h) to facilitate a continuous improvement in the quality of life of all the people in Dominica.

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

PART II ADMINISTRATION

Physical Planning and
Development Authority.

4. (1) For the purposes of this Act there shall be a Physical Planning and Development Authority for Dominica.

Ch. 84:01.

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

(3) The Authority 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.

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- (4) The Authority shall -
- (a) advance the purposes of this Act as set out in section 3;
 - (b) institute, complete, maintain and keep under review a study of matters pertinent to planning the use and development of the land of Dominica;
 - (c) prepare or cause to be prepared development plans in accordance with part III of this Act;
 - (d) regulate development by the means provided by this Act having regard to the need to secure consistency and conformity with the development plan;
 - (e) regulate the design and construction of buildings and the provision of services, fittings and equipment in or in connection with buildings;
 - (f) prepare, and submit to the Minister subject reports on matters which the Authority or the Minister may from time to time consider necessary or desirable having regard to the provisions of section 3;
 - (g) do all other things necessary for carrying out the purposes and provisions of this Act as may be authorised by this Act; and
 - (h) receive and consider applications for permission to carry out development of land in accordance with the provisions of this Act.

(5) The Authority shall remain at all times responsible for the proper performance of its functions under this section, but subject to subsection (1) may, for the purpose of such performance, as it thinks fit -

- (a) consult with or obtain advice from other authorities, persons or bodies of persons;

(b) engage other persons to carry out work on its behalf; or

(c) delegate any of its functions under section 9 to any of the persons referred to at paragraph (a) or (b), but shall at all times remain responsible for the proper discharge of those functions.

(6) Without restricting the generality of subsection (4), the Authority may delegate any of its duties to the Chief Physical Planner.

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

Chief Physical Planner.

5. (1) A Chief Physical Planner who shall be a public officer shall be appointed to exercise and perform the duties specified in subsections (2), (3), (4) and (5).

(2) The Chief Physical Planner shall be responsible to the Authority for the administration and operation of the system of planning for which this Act provides.

(3) The Chief Physical Planner shall be the Secretary to the Authority and the Chief Executive Officer.

(4) The Chief Physical Planner shall sign and issue all development permissions, refusals of development permission, compliance notices and other documents authorised by the Authority to be issued under the provisions of this Act.

(5) The Chief Physical Planner has the powers conferred upon him by this Act and the duties that he is required by this Act or by the direction of the Authority to perform.

Exercise of functions of
Chief Physical Planner.

6. (1) Functions assigned to the Chief Physical Planner by or under this Act, other than those mentioned in section 5 (4), may be exercised by any planning officer authorised by the Chief

Physical Planner in writing, either generally or specially, in that behalf.

(2) Any person exercising a function assigned to a planning officer by or under this Act shall be deemed, for the purpose of the exercise of that function, to be the proper officer for the exercise of that function, if authorised for the purpose by the Chief Physical Planner in writing, and shall be deemed to have the powers of a planning officer for the purpose of that function.

7. The Minister, members of the Authority, the Chief Physical Planner or other public officer shall not be personally liable in any court for or in respect of any act or matter done, or omitted to be done, in good faith, in the exercise or purported exercise of any function under or power conferred by this Act.

Limitation of personal liability.

PART III DEVELOPMENT PLANS

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

Proposal for development plan.

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

- (a) a reasoned statement of the need for the plan;
- (b) the main headings of the proposed contents of the plan;
- (c) a suggested timetable for the preparation of the plan;
- (d) proposals for obtaining representations from persons likely to be affected by or likely to wish to submit representations and views on the proposed plan during the course of its preparation;
- (e) proposals for the review of the plan by sectoral agencies and private sector representatives; and

(f) such other matters as are required by the Minister or are considered by the Authority to be necessary for a decision to be made on the proposal.

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

Scope and preparation of development plan.

9. (1) The Authority may prepare or cause to be prepared and thereafter keep under review a development plan -

- (a) for Dominica as a whole, which shall be called a National Physical Development Plan; or
- (b) for any specified part of Dominica, which shall be called by the name of the part of Dominica to which it relates.

(2) A development plan shall set out -

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

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- (vi) such other matters such as the Minister may, in a particular case, direct;
 - (c) a statement of the policies, proposals, and programmes for the future development and use of land in the area including principles for regulating the use and development of land and measures for the maintenance and improvement of the environment;
 - (d) a reasoned justification of the policies and proposals for the future development and use of land in the area having regard to -
 - (i) the report of the existing conditions of the area under paragraph (b);
 - (ii) an examination of the likely environmental effects of the proposals;
 - (iii) any specific policies of the Government which may affect the pattern of development in the area;
 - (iv) the relationship between the proposals in the plan and other previously approved development plans which may affect the area;
 - (v) the financial and other resources which are likely to be available for carrying out the proposals of the plan; and
 - (e) a schedule setting out the stages by which the proposals of the plan may be implemented.
- (3) The development plan shall include such maps, plans, drawings, diagrams and other graphic representations as the Authority considers necessary to illustrate and explain the plan with such a degree of particularity as may be appropriate to different parts of Dominica and to the nature of the development plan.

(4) A development plan may -

- (a) define the sites of proposed roads, public and other buildings and works, or the allocation of land for agricultural, residential, industrial or other purposes of any class, and the conditions under which such development should be carried out;
- (b) designate any area as an area which should not be developed due to its susceptibility to aircraft hazard or to flooding, erosion, subsidence, instability or other condition of the physical environment;
- (c) make proposals for the preservation of buildings, sites and other features of special architectural, cultural, historical or archaeological interest;
- (d) provide for any of the matters set out in the First Schedule as the Authority considers appropriate to the nature and scope of the proposed plan;
- (e) designate as a comprehensive planning area any area which in the opinion of the Authority needs to be planned as a whole for one or more of the purposes of development, redevelopment, improvement or conservation.

First Schedule.

(5) Where any land is designated in a development plan made under this Part as a comprehensive planning area, the land may be purchased compulsorily by the Minister in accordance with the Land Acquisition Act as being land required for public purposes within the meaning of that Act.

Chap. 53:02.

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

(7) A development plan shall not designate any land as a comprehensive planning area if it appears to the Authority that the

acquisition is not likely to take place within seven years from the date on which the plan is approved.

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

10. (1) During the preparation of a development plan and before finally determining its content for submission to the Minister, the Authority shall take such steps as in its opinion will ensure -

Public participation.

- (a) that adequate publicity is given in the area to which the plan relates to the matters which it proposes to include in the proposals;
- (b) that persons who may be expected to desire an opportunity of making representations to the Authority with respect to those matters are made aware that they are entitled to an opportunity of doing so; and
- (c) that such persons are given an adequate opportunity of making such representations.

(2) The Authority shall consider any representations made to it within the prescribed period.

11. (1) When the Authority has prepared a draft development plan it shall send a copy to the Minister and shall deposit a copy at the offices of the Authority and at such other place or places

Consideration of draft development plan.

as the Authority considers to be most effective for bringing it to the notice of persons residing, working or owning property in the area to which the draft development plan proposals relate, or who are likely to be affected by the proposals in the draft development plan.

(2) The Authority shall give notice in the *Gazette* and at least one newspaper circulating in Dominica of the depositing of a draft development plan, and of the places where it may be examined, and shall give such other publicity to and written or oral explanation of the draft development plan as, in its opinion, is best calculated to inform all persons affected or likely to be affected by the proposals in the draft development plan, and all persons of the right to make representations with regard to the proposals in the draft development plan.

(3) Any person may, within eight weeks of the publication in the *Gazette* of the notice referred to in subsection (2), make either oral or written representations on the draft development plan to the Authority.

(4) When the Authority submits a draft development plan for the approval of the Minister, it shall be accompanied by a statement of the steps taken by the Authority to comply with the provisions of this section and section 10 and the particulars of the consultations held with other persons with respect to the proposals in the draft development plan.

(5) After the expiration of the period prescribed for making representations on a draft development plan, the Authority shall meet and consider the draft development plan and the representations and comments made, and shall forward the same together with its own recommendations and comments to the Minister.

Approval of development plan.

12. (1) The Minister, after considering a draft development plan which has been submitted to him under section 11 and all comments, representations and recommendations made thereon, shall -

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- (a) adopt the draft plan and submit it for the approval of Cabinet;
 - (b) require further work on or revision of the draft plan; or
 - (c) require further consultations on the draft plan in whole or in part.

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

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

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

(5) Where a draft National Physical Development Plan is submitted to the Minister under section 11, and is accepted by the Minister and Cabinet with or without modifications, the Minister shall submit the draft National Physical Development Plan for the approval of Parliament.

(6) Parliament may approve a development plan with or without modifications or may reject the plan.

13. Where a development plan is rejected by the Parliament under section 12(6) the Authority shall prepare a fresh plan in accordance with section 9.

Rejection of development plan.

Deposit of approved plan.

14. (1) When a development plan for a specified part of Dominica has been approved by Cabinet or a National Physical Development Plan for Dominica has been approved by Parliament, as the case may be, a copy of the plan shall be deposited at the Registry of titles, the offices of the Authority, the Department of Lands and Surveys, the public library and post offices in Dominica, and the substance of the plan shall be publicized in the area or areas to which it applies, in such manner as the Authority may direct.

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

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

Modification or revocation of plan.

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

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

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

(4) The modification or revocation of an approved development plan for a specified part of Dominica shall be submitted by the Minister for the approval of Cabinet.

(5) The modification or revocation of an approved National Physical Development Plan shall be subject to an affirmative resolution of Parliament.

(6) Notice of the modification or revocation of an approved plan shall be published in the *Gazette* and at least one newspaper circulating in Dominica.

16. (1) Where two or more development plans have been approved which apply in whole or in part to the same area and there is any conflict or discrepancy between them, then -

Legal status of
development plans.

(a) the plan drawn to the larger scale shall have precedence; or

(b) if the plans are drawn to the same scale the later plan shall be deemed to have modified the earlier plan unless there is an express provision to the contrary.

(2) When a development plan has been approved -

(a) it may be the reason for the compulsory acquisition of land designated in that approved development plan as a comprehensive planning area;

(b) it shall be the duty of all public officers to have due regard to, and so far as is practicable, be guided by the plan in formulating and preparing any project of public investment and development in Dominica; and

(c) the Authority shall, in considering any application for development permission, give principal consideration to and be guided by the plan.

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

(4) An approved development plan remains in effect until it is revoked by the Minister by notice published in the *Gazette*.

PART IV

MANAGEMENT OF DEVELOPMENT OF LAND

Permission required to develop land.

17. (1) No person shall carry out any development of land except under and in accordance with the terms of a development permission granted in that behalf prior to the commencement of such development, on an application made in accordance with the regulations made under section 88, unless the development is permitted development authorised under subsection (2).

(2) The Minister may by Order published in the *Gazette*, grant permission to any class of development specified in the Order either unconditionally or subject to such conditions or limitations as may be specified in the Order, without the requirement for the making of an application for grant of development permission.

(3) Every Order made under subsection (2) shall be subject to a negative resolution of Parliament.

Types of development permission.

18. (1) The Authority may grant development permission expressed to be an outline development permission subject to the conditions and limitations therein, the effect of which shall be to grant approval in principle to erect buildings but not to permit the commencement of building operations until detailed development permission has been granted in respect of the details of the development or part thereof, for which outline development permission was granted, and those details shall not form part of the grant of outline development permission.

(2) Where the Authority is of the opinion that an application for outline development permission ought not to be considered separately from the detailed information required under section 19, it shall within thirty days of the receipt of the application notify

the applicant that it is unable to entertain the application and shall invite the applicant to submit the required further information under that section.

(3) Notwithstanding subsection (1) and without restricting the generality of subsection (2) the Authority shall not entertain applications for outline development permission for the classes of development set out in the Second Schedule, or for the development which is subject to the provisions of Part VI.

.Second Schedule.

(4) The Authority may grant development permission expressed to be a detailed development permission the effect of which is to permit the carrying out of operations in, on, over or under any land, the making of a material change in the use of any building or land or the sub-division of land, subject to the terms and conditions of the grant of detailed development permission.

19. (1) An application for a grant of development permission shall -

Application for development permission.

- (a) be submitted to the Authority through the Chief Physical Planner;
- (b) be made in such manner as may be prescribed by regulations made under section 88;
- (c) include such information as may be required by the regulations or by directions given by the Authority or the Chief Physical Planner; and
- (d) be accompanied by the prescribed fee.

20. (1) Within such time as may be prescribed by the Chief Physical Planner by notice in writing, an applicant for development permission shall -

Requirement for further information.

- (a) furnish the Chief Physical Planner, with such further information as may be specified in the notice; and

(b) at his own expense, cause an environmental impact statement or economic feasibility study to be prepared of the proposed development and submitted to the Chief Physical Planner.

(2) Where such further information required under subsection (1)(a) and (b) is furnished, the application shall be treated as having been made on the date when the information was received and the 120 day period provided for the determination of applications in section 26 shall not commence until the date of receipt of the further information.

(3) Where an applicant does not furnish the Chief Physical Planner with the further information required under subsection (1)(a) and (b) within the period prescribed in the notice or such longer period as may be agreed upon between the applicant and the Chief Physical Planner, the Authority may decline to determine the application and may return the application to the applicant with a notice to that effect, or the Authority may refuse to grant development permission, as it thinks fit.

Proof of ownership.

21. (1) Every application for permission to develop land, made by the owner of the land, shall be accompanied by a certified copy of the applicant's certificate of title or other relevant title document in respect of the land to which the application relates.

(2) Where the applicant for permission to develop land is not the owner of the land, the application shall be accompanied by a statutory declaration sworn to by the applicant stating that he has notified the owner of the land to which the application relates, or the owner's duly authorised representative, of the application and that the owner or his duly authorised representative does not object to the application.

Publicity of applications.

22. (1) In respect of certain classes of development which the Minister may by Order designate as likely to derogate from the amenities of the public or of adjacent or nearby properties, the Chief Physical Planner, by written notice served on an applicant

for a grant of development permission, may require the applicant to do either or both of the following:

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

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

- (a) for permission to develop, alter, add to, demolish in whole or in part a listed building or a building which is subject to a building preservation order;
- (b) for permission to develop land in an environmental protection area;
- (c) for which environmental impact assessment is required;
- (d) for permission to deposit, store or otherwise deal with toxic or hazardous waste;
- (e) for permission to develop any manufacturing process which will involve either directly or as waste, the production of toxic or other hazardous substances;
- (f) for permission to construct buildings or for the use of land for the purposes of a slaughterhouse, plucking or poultry, or processing of fish;
- (g) for permission to construct buildings or for the use of land for the purpose of a casino, gambling hall, recreation club, liquor shop, bingo hall, music hall, dance hall, theatre, cinema or sports hall;
- (h) for permission to carry out mining operations or mineral processing; or

(i) for permission to carry out development for an auto-repair shop, garage or gas station.

(3) the Authority may and in respect of an application referred to in subsection (2) shall -

(a) publish a notice in at least one daily newspaper and affix a notice on the land to which the application relates that an application to develop land has been received and will be determined on a date specified in the notice; and

(b) invite comments and representations either in writing or orally on such application.

(4) The Authority shall take into account any report, representation or comment submitted or made to it under this section.

Environmental impact assessment.

Second Schedule.

23. (1) Unless the Authority otherwise determines, environmental impact assessment shall be required in respect of any application for development permission to which the Second Schedule applies.

(2) Notwithstanding the provisions of subsection (1) the Authority may require environmental impact assessment of any development where it is of the opinion that significant environmental harm could result.

(3) On receipt of an application for development permission, the Authority shall determine whether environmental impact assessment of the proposal is required having regard to -

(a) the nature of the development activity proposed;

(b) the geographical extent, scale and location of the proposed development;

(c) the extent and significance of the changes to the environment likely to be caused by the proposed development;

-
- (d) the extent of general knowledge about the nature of the proposed development and its likely impact on the environment;
 - (e) any development plan for the area; and
 - (f) any other matter as may be prescribed in the regulations.

(4) Where it determines that environmental impact assessment is required, the Authority shall, within 30 days of receipt of an application for development permission, issue a written notice notifying the applicant or the person responsible of the determination that environmental impact assessment of the development proposal is required and setting out the terms of reference for the preparation of an environmental impact statement on the development proposal and the period within which the environmental impact statement shall be submitted to the Authority.

(5) Where the Authority issues a notice under subsection (4) that environmental impact assessment is required, the applicant or as the case may be the person responsible shall submit to the Authority an environmental impact statement on the development proposal in such form and containing such information as may be prescribed and the applicant or, as the case may be the person responsible, shall comply with this requirement.

(6) In this section “person responsible” includes any person at whose order or on whose behalf the development will be or is being undertaken.

(7) Where the Authority issues a notice under subsection (4) notifying the applicant or person responsible that environmental impact assessment is required, it shall inform any agency or department of Government having responsibility for the issue of any licence, permit, approval consent or other document of authorization in connection with any matter affecting the development.

(8) The Minister may make Regulations prescribing the qualifications, skills, knowledge and experience which shall be

possessed by persons preparing environmental impact statements and may cause a register of persons so qualified to be compiled and a person who is on such register shall be deemed to be approved by the Minister to prepare environmental impact statements for Dominica.

Consultation on application.

24. (1) The Chief Physical Planner may consult in writing any public officer or other person who appears to him to be able to provide information relevant to an application for development permission to enable the Chief Physical Planner to advise the Minister or the Authority, as appropriate, with regard to the application and shall consult any authority as may be prescribed in regulations made under section 88.

(2) An authority which receives a request in writing from the Chief Physical Planner for its comments on an application for development permission shall reply to that request within 28 days or such other period as may be agreed between the Chief Physical Planner and the Authority.

(3) Where the Chief Physical Planner has not received a reply to a written request for comments on an application from an authority within the time specified or agreed, he may proceed to determine the application notwithstanding the absence of a reply from the Authority.

(4) Any public officer or other person referred to in subsection (1), or his representative, may be invited by the Authority to attend and speak at any meeting called to consider the relevant application.

Material considerations.

25. (1) In considering an application for development permission, the Authority shall give principal consideration to -

- (a) an approved National Physical Development Plan for Dominica if any; and
- (b) an approved development plan applicable to the land to which the application relates, if any.

(2) In addition to the consideration referred to in subsection (1) the Authority shall take into account such of the following matters as appear to it to be relevant, or as the Chief Physical Planner may advise, in order to make a proper decision on the application -

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

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

- (v) the availability of water, electricity and waste disposal services; and
- (vi) traffic considerations;
- (i) the financial and other resources which are, or which will be, available to the applicant for the development permission;
- (j) the area of land required for the proposed development; and
- (k) such other matters as the Chief Physical Planner considers to be relevant to the determination of the particular application.

(3) Advice given to the Authority by the Chief Physical Planner, under this section shall be in the form of a report on each application, summarizing any relevant factors recommended to be taken into account in respect of that application and the suggested appropriate decision to be given on the application.

(4) The Authority may, in addition to the matters set out in subsection (2) take into account any other material planning considerations notwithstanding that the Chief Physical Planner has not advised the Authority on such planning considerations.

(5) The Authority shall not, by virtue of anything said in or following discussions or negotiations which may have taken place between any proposed developer and the Chief Physical Planner or any person acting on his behalf as to any proposed or contemplated development be bound to grant development permission in relation to any such development nor, if development permission is granted in respect of any such development, shall anything so said in any way preclude the Authority from granting it subject to any conditions that the Authority may consider proper.

(6) No claim to compensation or damages shall lie against the Government, the Minister, the Authority, the Chief Physical

Planner or other public officer in respect of, or arising out of, or in connection with, any refusal of permission for development in relation to which subsection (5) applies, nor shall any such claim lie in respect of, or arising out of or in connection with, the grant of any such permission subject to such conditions as the Minister or the Authority considers proper.

26. (1) The Authority may -

Determination of applications.

- (a) grant development permission unconditionally;
- (b) grant development permission subject to such conditions as it thinks fit; or
- (c) refuse development permission.

(2) Within 120 days of receipt of the application for development the Chief Physical Planner shall notify the applicant in writing, of the determination of the application, providing in the case of subsection (1) (b) or (c) -

- (a) a full and clear statement of all reasons for the determination; and
- (b) information on the opportunities available to the applicant for appeal against the determination.

(3) Where no decision has been made within 120 days of receipt of the application, the Chief Physical Planner shall notify the applicant of the progress made on the application and the extended date by which the decision is likely to be made, being no later than 60 days from the date of notification.

(4) Where no decision is made within 120 days of receipt of the application and no notification of an extended date has been issued to the applicant that application shall be deemed to have been refused for the purposes of section 75 (2)(a).

(5) For the avoidance of doubt, it is hereby declared that a development permission granted after expiration of the 120 day

period referred to in subsection (4) is effective as a development permission for all purposes except those of section 75 (2)(a).

Applications
inconsistent with
development plan.

27. (1) If it appears to the Authority that an application is inconsistent in some material respect with an approved development plan applicable to the area in which the development is proposed, but nevertheless it considers that permission should be granted, the Authority shall -

- (a) publish a notice in the *Gazette* and at least one newspaper circulating in Dominica notifying the public -
 - (i) that an application which departs from an approved development plan has been received;
 - (ii) of the places where the application may be inspected by persons interested; and
 - (iii) that a public inquiry to examine the application will be held at a place specified in the notice, and at a time not being less than 28 days from the date of the notice; and
- (b) invite comments and representations on any such application to be submitted to the Authority either orally at the public inquiry or in writing within a notice; and
- (c) take into account any report, representation or comment submitted to it under this section, including the findings of the public inquiry held under this section.

(2) When the Authority has concluded its consideration of the comments received and the findings of the public inquiry held in respect of an application, it shall advise the Minister of its findings and recommendations thereon, giving its reasons therefor in writing, and shall determine the application in accordance with the views of the Minister, which shall be given to the Authority in

writing together with the reasons therefor.

28. (1) Without prejudice to the generality of section 26 (1)(b) the Authority may impose conditions on a grant of development permission which relate to any matter referred to in section 25 (2) or which arrange for -

Conditions of
development permission.

- (a) regulating the manner in which the development authorised by the permission is to be carried out including -
- (i) the timing and phasing of the implementation of the development;
 - (ii) the dimensions, design, structure, or external appearance of any buildings or the number or disposition of any buildings on the land which is the subject of the development permission;
 - (iii) the location, design or materials of construction of any means of access from the development to a public road;
 - (iv) the disposal of sewage, effluent or trade waste from the development;
 - (v) the supply of water to the development;
 - (vi) the landscaping of the development;
 - (vii) the preservation of trees, vegetation or other natural features of the land where the development is to take place;
 - (viii) the preservation of any buildings or sites of importance to the cultural heritage of Dominica;
 - (ix) the reservation of any part of the land on which the development is to take place for roads, open space or other public or communal purposes reasonably incidental to the development;

- (x) the nature of the materials to be used in any building or engineering operations in the development;
 - (xi) the routing of any vehicles or vessels to be used for the purpose of or in connection with the development;
 - (xii) the removal of materials or waste from such land or adjacent land used for the purpose and the carrying out of any works required for the reinstatement, restoration, or preservation of the land and the environment when the development is completed;
- (b) regulating the development or use of any land adjacent to the land which is the subject of the development permission under the ownership or control of the applicant including the discontinuance of any existing uses of the land requiring the carrying out of works including the demolition of any buildings on such land or the removal of plant and machinery from the land so far as appears to the Authority expedient for the purposes of or in connection with the development authorised by the permission;
- (c) requiring the removal of any buildings or works authorised by the permission, or the discontinuance of any use of land so authorised at the expiration of a specified period, and the carrying out of any works required for the reinstatement of the land at the expiration of that period;
- (d) regulating the use which may be made of any building or use of land authorised by the development permission notwithstanding an order made under section 17(2);

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

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

(3) A development permission granted subject to any such condition as is referred to in subsection (1)(c) is in this Act referred to as "permission granted for a limited period only".

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

Development agreements.

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

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

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

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

(4) An agreement made under this section shall not be entered into except by an Instrument executed as a deed.

Performance bonds.

30. (1) Where the Authority requires, in a condition imposed on a grant of development permission to develop land under section 28 or as a term of an agreement made under section 29 that an applicant or, as the case may be, a person with whom it makes an agreement, provide a bond as a security for the

performance of any condition subject to which permission to develop land was granted or for the performance of the agreement, the Authority shall require a charge on the land to which the permission or agreement relates as appears to it to be expedient and proper to ensure that the bond may be enforced.

(2) The Authority may enforce a bond entered into by an applicant for permission to develop land under section 28, or by a person with whom it has made an agreement under section 29, by all appropriate legal and equitable remedies.

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

lapse of development permission.

(2) Where in accordance with the provisions of this section an outline development permission has expired, an application for detailed development permission in respect of that expired outline development permission may be refused without any liability to pay compensation under section 69.

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

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

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

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

Supplementary provisions as to grant of development permission.

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

(2) Where a grant of development permission is made for a limited period only in accordance with section 28 (1)(c) at the expiration of that period the use of the land for the purpose for which it was used before the grant of such permission for a limited period, may be resumed without express grant of development permission only if that use was a lawful use.

(3) Where a grant of development permission is made for the erection of a building, the grant shall specify the purposes for which the building may be used.

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

(5) A condition in a permission granted under subsection (4) may require the applicant to pay a sum of money as provided for in the Regulations under this Act to the Authority in respect of the buildings or works constructed or carried out before the date of the application or in respect of land instituted before that date.

33. (1) The Chief Physical Planner, acting on behalf of the Authority, may approve a minor variation to a grant of development permission which in his opinion does not alter or affect the terms and conditions of the grant of development permission in any material respect and in such event the Chief Physical Planner shall inform the Authority of the action which he has taken in that particular case.

Minor variation of development permission.

(2) A request for approval of variations to a grant of development permission shall be submitted to the Chief Physical Planner in writing and any approval shall be recorded in the register of planning decision.

(3) Where the Chief Physical Planner is requested to approve a variation under subsection (1) but is of the opinion that the variation proposed is not a minor one, he shall, refer the request to the Authority for determination and shall inform the applicant of that fact in writing.

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

Modification or revocation of development permission.

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

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

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

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

(4) A notice of the modification or revocation of a grant of development permission under this section shall include -

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

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

(c) information as to any claim for compensation that may arise in consequence of the modification or revocation, and the procedure for making any claim for compensation;

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

(e) such other matters as may be prescribed.

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

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

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

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

35. (1) The Minister may by notice in the *Gazette* and at least one newspaper circulating in Dominica direct the Authority to refer to him -

Reference of application.

(a) any application for development permission;

(b) all such applications of any specified class.

(2) The Authority shall refer to the Minister for his decision any application for development permission to which a direction made under subsection (1) relates.

(3) Where an application is referred to the Minister under this section, the provisions of this Part shall apply with necessary modifications as they apply to an application for development permission which fails to be determined by the Authority.

(4) In determining an application referred to him under this section, the Minister may consult any body or person he thinks fit.

(5) A determination of the Minister under this section shall be accompanied by a full and clear statement of the reasons for the determination of the application.

(6) The decision of the Minister or any application referred to him under this section shall be final.

PART V COMPLIANCE

36. (1) Where it appears to the Authority that a breach of planning control has taken place, that is to say -

Compliance notice.

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

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

the Authority may if it considers it expedient to do so having regard to any development plan applicable to the land where the breach of planning control is alleged to have taken place and to other material considerations such as are set out in sections 25 and 37, serve a compliance notice in accordance with subsection (4) requiring the breach to be remedied.

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

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

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

(4) A copy of the compliance notice shall be served on the owner and on the occupier of the land to which it relates, and may be served on -

- (a) any other person having a material interest in the land, that is to say, an interest which in the opinion of the Authority is materially affected by the notice;

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- (b) the authorised representatives of the persons referred to in paragraph (a); or
- (c) any other person carrying on, or who is in control of a person carrying on, activities on the land which are alleged to constitute the breach of planning control.
- (5) The fact that the Authority fails to serve a notice on anyone or other of the persons referred to in subsection (4) shall not invalidate any action or proceedings against any other of such persons.
- (6) A compliance notice shall take effect on the date specified in it (in this Part referred to as the “specified date”).
- (7) A compliance notice shall be served not later than 21 days from the date of issue and not later than 28 days before the specified date.
- (8) A compliance notice shall state clearly -
- (a) which breaches of planning control referred to in subsection (1) (a) and (b) are alleged to have taken place;
 - (b) the particulars of development which appear to constitute the breach;
 - (c) the person or persons on whom it is served in accordance with subsection (4);
 - (d) the steps which the Authority requires to be taken to remedy the breach and the time within which they must be taken;
 - (e) the powers of the Authority, in case of default in compliance with the notice, to enter upon the land and take the steps specified in paragraph (d);
 - (f) the penalties which may be incurred if the steps specified in paragraph (d) are not taken; and

(g) the opportunities which are available to the person or persons on whom the copy of the compliance notice was served to appeal the notice.

(9) The steps which the Authority may require to be taken by a person on whom a compliance notice has been served, to remedy the breach to which the compliance notice relates, may be one or more of the following namely -

- (a) to restore the land as near as may be to the appearance and state that it had before the breach took place including replacement of soil, planting or replanting of trees and other vegetation;
- (b) to comply with any limitation or condition in a grant of development permission;
- (c) to demolish or remove a building in whole or in part;
- (d) to carry out any building or other operations on the land to which the notice relates;
- (e) to discontinue any use of land or buildings;
- (f) to remove anything which constitutes development and was placed on the land without development permission;
- (g) to remove any advertisement or to display it in the place permitted by a grant of development permission;
- (h) to remove any authorised marks of identification in, on, or over land which have as their purpose the identification of a boundary of a sub-division alleged to constitute a breach of planning control;
- (i) to remove or prevent any damage to the land or amenities of the area which has been or is likely

to be caused by the development which constitutes the breach of planning control;

- (j) to do or to refrain from doing or to take or to refrain from taking any actions similar to those listed in paragraphs (a) to (i) which would assist in the ending of the unauthorised development;
- (k) to cease any specified operations on the land which are alleged to be a breach of planning control.

(10) The Authority may at any time -

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

(11) The powers conferred by subsection (10) may be exercised whether or not the compliance notice has taken effect.

37. (1) In considering whether or not a compliance notice shall be served the Authority shall take into account such of the following matters as may be relevant in the circumstances of the particular case namely-

- (a) any development plan applicable to the land where the breach of planning control is alleged to have taken place;
- (b) the nature and extent of the development which constitutes the alleged breach;

Material planning considerations with respect to compliance notices.

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- (c) the extent or likely extent of damage to the natural or built environment;
 - (d) the extent to which the development constitutes a nuisance or a threat to public health and safety;
 - (e) any objections and representations made by aggrieved persons in the neighbourhood;
 - (f) the length of time the breach of control has continued;
 - (g) the benefits to the community (if any) resulting from the development;
 - (h) any possible alternative measures which could be taken to remedy the unauthorised development;
 - (i) the effect of the development of any public works;
 - (j) whether it is necessary, desirable and convenient having regard to the public interest to serve or confirm a compliance notice;
 - (k) any other material considerations.

Notice to apply for
development permission.

38. (1) The Chief Physical Planner may, in any case in which he considers that a breach of planning control has taken place, by written notice served on the person or persons referred to in section 36 (4) require that an application shall be submitted for development permission and in such case the Chief Physical Planner shall refrain from issuing a compliance notice if such application for development permission is submitted within 28 days of the service of such notice or such extended period as may be agreed.

(2) Where the Authority approves a grant of development permission in respect of an application made in conformity with a notice served under subsection (1), the Authority may authorize the grant of permission with retrospective effect to the date when the development commenced, or such other date as the

Authority considers to be appropriate in the particular case.

(3) Where the Authority grants development permission under this section, the provisions of section 32 (5) shall apply.

(4) Where the Authority refuses to grant development permission under this section, the provisions of section 37 may apply.

39. (1) If, within 28 days of the service of the compliance notice -

Suspension of effect of compliance notice.

- (a) an application is made to the Authority for permission for the retention on the land of any buildings or works to which the compliance notice relates, or for the continuance of any use of the land to which the compliance notice relates; or
- (b) notice of an appeal is given under section 75 by a person on whom the compliance notice was served;

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

40. (1) Where the Board considers it expedient in the interests of public health, public safety or the integrity of the environment that a breach of planning control should cease before the expiry of the period for compliance with a compliance notice, the Board may, at the same time serve a copy of the compliance notice or afterwards, being at any time before the specified date in the compliance notice, serve an order (in this Act referred to as a 'stop order') to stop the breach.

Stop Order.

(2) A stop order shall refer to, and have annexed to it, a copy of the compliance notice to which it relates and shall prohibit any person on whom the stop order is served from carrying out or continuing any specified activities on the land, being activities either alleged in the compliance notice to constitute a breach of planning control or so closely associated therewith as to constitute

substantially the same activities, and shall direct that person to immediately cease and desist from the activities prohibited.

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

(4) A stop order may be served by the Authority on any person who appears to it to have an interest in the land or to be concerned with the carrying out or the continuance of any operations thereon.

(5) A stop order shall -

- (a) take effect from the date of its service;
- (b) without prejudice to subsection (8) cease to have effect when -
 - (i) the compliance notice to which it relates is withdrawn or quashed;
 - (ii) the compliance period expires;
 - (iii) notice of the withdrawal of the stop notice is served under subsection (8).

(6) If a person on whom a stop order is served carries out, or causes or permits to be carried out, any operations prohibited by the order, he commits an offence and is liable on summary conviction to a fine of forty thousand dollars and if the offence is continued after conviction he shall be liable to a further fine of one thousand dollars for each day on which the offence continues.

(7) A stop order shall not be invalid by reason that the compliance notice to which it relates was not served as required by section 36 of this Act if it is shown that the Authority took all such steps as were reasonably practicable to effect proper service.

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

(9) It is declared that -

- (a) the Authority need not provide any person with an opportunity to make representation prior to the making of a stop order;
- (b) there shall be no right of appeal to the Appeals Tribunal against the making of a stop order;
- (c) an appeal against the compliance notice to which it relates shall not suspend the operation of a stop order;
- (d) a person on whom a stop order is served may appeal to the Court against the making of the stop order within 28 days of the service of the stop order and the Court may confirm the stop order with or without modification, or quash it in whole or in part;
- (e) the making of an appeal referred to in paragraph (d) shall not suspend the operation of a stop order, and the stop order shall remain in full force and effect pending the determination of the appeal;
- (f) no compensation shall be payable in respect of the prohibition in a stop order of any activity which at any time when the order is in force, constitutes, or contributes to, a breach of planning control.

41. In addition to any other remedy provided by this Act, the Authority may in any case that it thinks fit, institute a civil action for an injunction to prevent any person from violating the provisions of this Act, or to enforce any compliance notice or stop

Injunctions.

order, whether or not it has exercised or is proposing to exercise any of its other powers under this Act.

Action by Authority for
for non-compliance with
compliance notice.

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

(2) When the Authority has exercised any power under subsection (1), it may recover as a civil debt, from the person on whom the notice has been served, those expenses reasonably incurred by it in the exercise of such power.

(3) If the person referred to in subsection (2), having been entitled to appeal under section 43 has failed to make such an appeal he shall not be entitled in any proceedings to dispute the validity of the action taken by the Authority or the Chief Physical Planner upon any ground that could have been entertained on such an appeal.

(4) Nothing in this Part shall be construed as requiring development permission to be obtained for the use of land for the purpose for which it could lawfully have been used if the development in respect of which a compliance notice was served under section 36 had not been carried out.

Appeal against
compliance notice.

43. (1) If any person on whom a compliance notice is served is aggrieved by the compliance notice, he may at any time within 28 days of the service of the notice appeal against the compliance notice under section 75 and on any such appeal the Appeals Committee -

(a) if satisfied that permission was granted under Part IV for the development to which the compliance notice relates, or that no such permission

was required in respect thereof, or, as the case may be, that the conditions subject to which such permission was granted have been complied with, shall quash the compliance notice to which the appeal relates;

(b) if satisfied that a variation of the compliance notice would be appropriate, may vary the compliance notice accordingly; or

(c) in any other case shall dismiss the appeal.

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

44. (1) Compliance with the requirements of a compliance notice shall not discharge the compliance notice.

Continuing operation of compliance notice.

(2) Without restricting the generality of subsection (1), where any development is carried out by way of reinstating or restoring buildings or works that have been demolished or altered in accordance with a compliance notice, the compliance notice shall, notwithstanding that its terms are no longer wholly apt for the purpose, be deemed to apply in relation to any building or works so reinstated or restored as it applied in relation to such building or works before they were demolished or altered, and section 42 (1) and (2) shall apply accordingly.

(3) Without affecting the operation of section 42, a person who carries out any development on land by way of reinstating or restoring buildings or works that have been demolished or altered in accordance with a compliance notice commits an offence and is liable on summary conviction to a fine of five thousand dollars.

45. (1) If it appears to the Authority that it is expedient in the interests of the proper planning of Dominica (including the

Notice requiring discontinuance of use, alteration or removal of building or works.

interests of amenity), regard being had to a development plan and to any other material considerations -

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

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

(2) The provisions of section 36 (4) to (10) inclusive, and the provisions of sections 37, 39, 42, 43 and 44, shall apply to a notice served under subsection (1) in like manner to a compliance notice served under section 36, save that -

- (a) references to a compliance notice in those provisions shall have effect as if they were references to a notice served under subsection (1);
- (b) references to a breach of planning control shall have effect as if they were references to the use of land or the buildings or works specified in the notice served under subsection (1);
- (c) where a claim for compensation has been submitted under section 69 the provisions of section 42 shall be exercisable only by way of counter-claim, to offset against the said claim for compensation;
- (d) section 43 (1) (a) shall not apply; and
- (e) references to “remedy” the breach of planning control shall have effect as if they were references to the carrying out of the acts and works

required under the notice served under subsection (1), and, notwithstanding the adoption of the said provisions for the purposes of this section, it shall not be inputed that work previously carried out under a valid development permission shall be retrospectively deemed unauthorised.

PART VI

ENVIRONMENTAL PROTECTION

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

Compliance of a list of buildings.

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

(3) Before compiling, adopting or amending any list thereunder, the Authority shall consult with the relevant Ministers and such other persons or bodies of persons as appear to it appropriate as having special knowledge of, or interest in buildings of architectural or historic interest.

(4) As soon as may be after the approval of the compilation of a list or the amendment of a list, a notice shall be published in the *Gazette* and at least one newspaper circulating in Dominica, of the compilation or amendment of the list and of the place or places where the list may be inspected.

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

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

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

(8) Where the Authority received notice of any proposed works under subsection (6) it shall send a copy of the notice to the relevant Ministers and to such other persons or bodies as may be specified by directions of the Minister either generally or in respect of the building in question.

Building preservation orders.

47. (1) Where it appears to the Authority on its own initiative or on the representation made to the Authority or to the Minister by a person or body of persons that it is desirable having regard to the importance of preserving the landscape, architectural, cultural or historical heritage of Dominica to make provision for the preservation of any building or group of buildings of special architectural or historic interest in Dominica, the Authority may for that purpose make an interim building preservation order restricting the demolition, alteration or extension of the building or group of buildings.

(2) For the purposes of this section a group of buildings may be made the subject of a building preservation order if by reason of their proximity and relationship to each other it is considered desirable that the whole group should be preserved.

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

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

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

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

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

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

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

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

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

(11) A building preservation order shall -

- (a) be served on every owner and occupier of the building or group of buildings to which it applies;
- (b) specify the building or group of buildings to which it applies;
- (c) state the effect of the order and when it comes into effect; and

(d) inform the owner and occupier of the building or group of buildings of the opportunities for making an appeal against the order under section 75.

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

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

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

(a) the building has become incapable of reasonably beneficial use in its existing state; or

(b) the building cannot be rendered capable of reasonably beneficial use by the carrying out of the conditions imposed by the building preservation order;

he may within the prescribed time and in the prescribed manner serve on the Authority a purchase notice requiring the Minister to purchase his interest in the building.

(2) The provisions of section 73 (3) (a) and (b), and (4) shall apply to a purchase notice served under subsection (1) as if for the word "land" there were substituted the word "building" and as if for the words "modification or revocation notice, the discontinuance notice, the public access notice or the environmental protection order," there were substituted the words "building preservation order".

49. (1) Where the Minister after consultation with the Minister responsible for the environment, is of the opinion that it is desirable for amenity, environmental, landscape, scientific or similar reasons that any plant or group or species of plants, ought

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

Plant preservation order.

to be preserved, the Minister may make a plant preservation order with respect to such plant, group or species of plant.

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

(3) A plant preservation order shall-

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

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

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

(6) Notice of the making of a plant preservation order shall be published in the *Gazette* and in at least one newspaper circulating in Dominica.

50. (1) In any case in which the Authority considers that land is - Amenity orders.

- (a) unsightly and injurious to the amenity of the area, and visible to persons using a public highway or any other area to which the public has a right of access; or
- (b) likely to be or is offensive to persons residing in the immediate neighbourhood of such land, by reason of any waste, rubbish, derelict or abandoned machinery, articles or materials of any kind, or the dilapidated state of any structure or building thereon;

it may prepare and submit to the Minister a draft amenity order.

- (2) An amenity order shall state clearly -
- (a) the land to which it applies, and the owner or occupier thereof;
 - (b) any matter that is required to be cleared;
 - (c) if screening is required to be carried out, the requirements to effect the screening;
 - (d) the time, not being less than 28 days from the date of service of the order upon the owner or occupier, for compliance with the order;
 - (e) in the case of an order requiring clearance, the matter which must be destroyed, or the place, being an authorised place for the disposal of rubbish, to which it must be removed, as appropriate;

(f) in the case of a building, the manner in which the building is required to be repaired, painted or demolished, in whole or in part;

(g) where the Authority is aware that the occupier of the land have access to such land on such terms and conditions as may be specified in such notice.

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

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

(5) Where the order is approved by the Minister, copies shall be served on the occupier or owner of the land concerned, or if no such person can be found, may be served by affixing a copy of the order in a conspicuous place on the land concerned.

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

Appeal against amenity order.

51. (1) Any person upon whom an amenity order has been served under the provisions of section 50 may appeal to the Appeals Committee constituted under Part IX against the making or terms of such order.

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

(a) the person upon whom an order has been served is not an owner or occupier of the land to which the order applies;

(b) the person upon whom the notice has been served has no control over and no authority to remove, destroy or demolish any matter or building referred to in the order;

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- (c) the time within the order must be complied with is not reasonably sufficient for the purpose;
 - (d) the work specified in the order is unreasonable in character or extent or is unnecessary;
 - (e) that having regard to the character and condition of land and buildings in the immediate neighbourhood, the order is unreasonable.

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

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

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

Public access for recreational purposes.

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

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

his interest in the land by reason of such right of access by members of the public.

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

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

Public access and right of way to beaches.

53. (1) There shall be at least one public landward access to every beach in Dominica.

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

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

Ch. 53:02.

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

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

(6) In this section "traditional public use" means peaceable, open and uninterrupted enjoyment for a period of 20 years.

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

Control of advertisements.

- (a) for regulating the dimensions, appearance and position of advertisements that may be displayed, the sites on which the advertisements may be displayed, and the manner in which they are to be affixed to land;
- (b) for requiring the consent of the Authority to be obtained for the display of advertisements, or of advertisement of any class specified in the regulations;
- (c) for applying, in relation to any such consent and to applications therefor, any of the provisions of Part IV relating to permission to develop land and to application for such permission, subject to such adaptations and modifications as may be specified in the regulations;
- (d) for enabling the Authority to require the removal of any advertisement that is being displayed in contravention of the Regulations, or the discontinuance of the use for the display of advertisements of any site that is being used for that purpose in contravention of the Regulations, and for that purpose for applying any of the provisions

of this Part with respect to compliance notices, subject to such adaptations and modifications as may be specified in the regulations;

- (e) for the constitution, for the purpose of the Regulations, of such advisory panels as may be prescribed by the Regulations, and for determining the manner in which the expenses of any such panels are to be defrayed.

(2) Subject to section 55, Regulations made under this section may be made so as to apply to advertisements that are being displayed on the date on which the regulations come into force, or to the use for the display of advertisements of any site that was being used for that purpose on that date.

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

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

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

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

-
- (a) with respect to environmental protection areas;
or
- (b) with respect to areas defined for the purposes of the Regulations as areas of special control, being areas which appear to the Minister to require special protection on the grounds of amenity.
- (6) In exercising the powers conferred by this section the Minister shall -
- (a) in the interests of amenity, determine the suitability of sites for the display of advertisements having regard to any development plan applicable to the area and to the general characteristics of the locality including the presence of any feature of architectural, historic, cultural or similar interest and the natural beauty or scenic value of the locality; and
- (b) in the interests of public safety have regard to the safety of persons who may use any road, dock, harbour or airfield and in particular shall consider whether any display of advertisements thereon is likely to hinder or obscure any road or traffic sign or any aid to navigation by air or water.

55. (1) Where the display of advertisements in accordance with Regulations made under section 54 involves the development of land within the meaning of this Act development permission for that development shall be deemed to be granted by virtue of this section, and no application shall be necessary in that behalf under the provisions of Part IV.

Supplementary provisions as to advertisements.

(2) Without affecting any provisions included in regulations made under section 88 (2) (i), a person who displays an advertisement in contravention of the provisions of the Regulations, commits an offence and is liable on summary conviction to a fine of such amount as may be prescribed by the Regulations,

not exceeding five thousand dollars and, in case of a continuing offence, to a further fine not exceeding three hundred dollars for every day after the first day during which the display is so continued.

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

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

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

Environmental
protection area.

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

(2) Before finally determining whether to recommend to the Minister that any area should be declared an environmental protection area, the Authority shall -

- (a) take such steps as in its opinion will ensure that adequate publicity is given to its proposals in the area to which the proposals relate;
- (b) provide persons living and working in the area and any other persons interested in the area with an opportunity of making representations and comments on the proposals;

(c) consult with the Minister responsible for the Environment and any other person, body or authority who appears appropriate as being interested in or having special knowledge on environmental matters; and

(d) receive and take account of the representations and comments received on the proposals.

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

(a) the survey prepared under subsection (1);

(b) any representations or comments submitted by any person, body or authority on the proposals;

(c) such of the following matters as may be relevant to the area -

(i) the flora and fauna of the area;

(ii) the natural features and beauty of the area;

(iii) any outstanding geological, physiographical, ecological, or architectural, cultural or historical features of the area which it is desirable to preserve and enhance;

(iv) any special scientific interest in the area;

(v) any special natural hazards to which the area is or may be subject; and

(vi) the characteristics, circumstances and interests of the people living and working in the area.

(4) Where the Authority is of the opinion that any area ought to be declared an environmental protection area it shall submit to the Minister -

(a) its recommendations and proposals;

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

Environmental
protection area order.

57. (1) The Minister shall consider the report of the Authority and shall in determining whether to declare any area to be an environmental protection area have regard to the matters set out in section 56 (3).

(2) Where the Minister is of the opinion that it is desirable to afford special protection to an area on account of the matters set out in section 56 (3), he may by Order declare that area to be an environmental protection area.

(3) An Order made under subsection (1) may -

- (a) designate any part of an environmental protection area as being an area in which, subject to the grant of development permission, only certain development or classes of development may be permitted;
- (b) prohibit any development within the area or any part thereof;
- (c) authorize the carrying out in the environmental protection area of such works and the doing on the land of such other things as may be expedient for the protection of the area as an environmental protection area;
- (d) provide for control over use of land within an environmental protection area for purposes of agriculture or forestry;

-
- (e) without prejudice to the provisions of Part IV, require that any person who proposes to undertake any activity or enterprise of a description or category as may be prescribed shall, no less than 60 days before commencing, notify the Authority of his proposals and furnish to the Authority such documents and information as it may require;
 - (f) require that environmental impact assessment be undertaken with respect to any proposal for an activity, enterprise or development referred to in paragraphs (a) to (e); or
 - (g) restrict or prohibit the entry into the area of any person or the movement of, or any activity carried out by, any person in the area.

58. (1) In any case in which private land is included in an area which has been declared to be an environmental protection area, and in which the Minister does not acquire the land under the Land Acquisition Act, any person holding any interest in such land shall be entitled to receive compensation from the State for the depreciation if any, of the value of his interest in the land consequential upon any restriction imposed on his use or interest in the land by reason of such declaration, such compensation to be determined in the same manner as compensation payable under section 69.

Land in environmental protection areas.

Ch. 53:02.

(2) If agreement cannot be reached between the Minister and the party concerned as to whether or not any compensation is payable, or as to the amount thereof, the matter shall be determined under the provisions of the Land Acquisition Act.

Ch. 53:02.

59. (1) The Authority may prepare or cause to be prepared an environmental protection area management plan with respect to any area declared to be an environmental protection area under section 57.

Environmental protection area management plan.

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

- (a) the preservation of marine and terrestrial flora and fauna including the regulation of hunting and fishing;
- (b) the protection of water supplies, water catchment areas and mineral resources;
- (c) the prevention of erosion, landslips and flooding;
- (d) the control of fires;
- (e) the control of pollution;
- (f) the designation of special resource and use areas in the coastal zone;
- (g) the use and development of land so as to sustain the local economy of the environmental protection area;
- (h) the prohibition, restriction or regulation of access to any area and the prevention of squatting;
- (i) the development of facilities for residents and visitors for the enjoyment of the special features of the environmental protection area; and
- (j) the development of facilities for educational visits, study and research of the special features of the environmental protection area.

Designation of special resource and use areas.

60. (1) The Minister may, in consultation with the Minister responsible for State lands, by Notice published in the *Gazette*, declare any area of the foreshore or the sea bed as special resource and use areas where public use of certain lands and

waters of the foreshore or sea bed needs to be controlled or protected to ensure the safety and welfare of the public and for the preservation of the coastal environment namely -

- (a) protected swimming and surfing areas where other potentially conflicting uses are prohibited; and
- (b) designated area for -
 - (i) anchoring;
 - (ii) mooring;
 - (iii) beaching;of ships, yachts, motor boats, boats and other water craft, and restrictions on the numbers and kinds of ships, yachts, motor boats, boats, and other water craft that may be anchored, moored, or beached in any particular bay or other coastal area at one time;
- (c) designated areas where the use of equipment for -
 - (i) wind surfing;
 - (ii) water skiing; or
 - (iii) any other water-related sport, including spear fishing;

is prohibited.

(2) Prohibited and permitted activities in special resource and use areas designated pursuant to this section shall be as specified in the notice, or prescribed by Regulations made under this Act.

61. (1) Where the Minister is satisfied on information received from the Authority, that it is in the public interest for the purpose of preventing or mitigating a specified environmental threat or hazard so to do, he may by Order published in the *Gazette*, and at least one newspaper circulating in Dominica,

Ministerial order to protect the Environment.

direct the Authority to take such steps as are necessary to remove, mitigate or prevent any condition that poses or is likely to pose a threat to the environment and the Authority shall act in accordance with such Order.

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

(3) An Order made under subsection (1) shall be subject to negative resolution of Parliament;

(4) The Authority shall cause a copy of every Order made under this section to be posted in a conspicuous place at every police station and post office in Dominica.

(5) Any person who -

(a) obstructs any person in carrying out any measures authorised by an Order under subsection (1);
or

(b) contravenes any provision of such Order,
commits an offence, and is liable on summary conviction to a fine not exceeding twenty thousand dollars.

PART VII

BUILDING REGULATION

Application for building control.

62. Subject to the provisions of this Part no person shall commence the construction of a building without first obtaining a building permit issued by the Authority in respect of that building.

Building Regulations.

63. (1) The Minister may make Regulations hereinafter referred to as “Building Regulations” with respect to the design and construction of buildings and the provision of services, fittings and

equipment in or in connection with buildings and particularly with respect to the following matters -

- (a) as to new buildings -
 - (i) the preparation and foundation of the site appropriate to the prevailing soil conditions;
 - (ii) the method of construction, structural strength and stability;
 - (iii) the suitability and durability of the materials, including materials of short life and their preservation from decay and infestation;
 - (iv) the space about buildings;
 - (v) the insulation, lighting and ventilation of rooms;
 - (vi) the dimensions of rooms and spaces;
 - (vii) fire precautions and safety;
 - (viii) plumbing and water supply;
 - (ix) drainage;
 - (x) sanitation;
 - (xi) sewage disposal;
 - (xii) electrical installations and wiring, gas installations and piping, and telecommunications services;
 - (xiii) lifts and other mechanical means of conveyance for access;
 - (xiv) refuse disposal, storage, treatment and removal of waste, and emission of noxious or offensive substances;
 - (xv) hurricane and earthquake precautions and protection;

(xvi) means of access to and egress from buildings;

(xvii) low cost housing; and

(xviii) matters connected with, or ancillary to, any of the foregoing matters;

(b) as to existing buildings -

(i) structural alterations or extensions to buildings;

(ii) buildings so far as affected by alterations or extensions;

(iii) buildings or part of buildings in cases where the purposes for which or the manner or circumstances in which a building or part of a building is used change or changes in a way that constitutes a material change of use of the building or part as defined, within the meaning of this section;

(c) so far as they relate to the matters mentioned in this paragraph, Regulations made under paragraph (a), may be made to apply to buildings erected before the date on which the Building Regulations came into force but except as aforesaid shall not apply to buildings erected before that date; and

(d) generally, for carrying the purposes or provisions of this Part of the Act into effect.

(2) For the purposes of this Part, there shall be deemed to be a material change in the purposes for which a building or part of a building is used where -

(a) a building, or a part of a building, being a building or part of a building which was not originally constructed for occupation as a house, or which

though so constructed, has been appropriated to other purposes, becomes used as a house;

- (b) a building or part of a building being a building or part of a building which was originally constructed for occupation as a house by one family only, becomes occupied as separate establishments by two or more families; or
- (c) Building Regulations contain special provisions with respect to buildings used for any particular purpose, a building not previously used for that purpose, becomes so used.

(3) Building Regulations may -

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

(4) Regulations made under this section may include provisions as to -

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

(c) the prescribing and payment of fees.

Appointment of building inspectors.

64. It shall be a function of the Authority to enforce Building Regulations and the Authority shall appoint such persons as it shall deem appropriate, as building inspectors, to assist the Chief Physical Planner in the performance of such function.

Passing and rejection of plans.

65. (1) Where plans of any proposed work are, in accordance with Building Regulations, deposited with the Chief Physical Planner, the Chief Physical Planner shall pass the plans, unless -

- (a) they are defective;
- (b) they contravene any provision of Building Regulations; or
- (c) there is a failure to comply with the provisions of this Part, in which case he shall refer those plans to the Authority together with his advice thereon.

(2) If the Chief Physical Planner on referring plans in accordance with subsection (1) considers that the operation of any requirement contained in Building Regulations would be unreasonable in relation to that particular case, he may recommend that the Authority relax or dispense with that requirement.

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

(4) On receipt of any plans on a referral by the Chief Physical Planner under subsection (1), the Authority may -

- (a) reject those plans; or
- (b) pass them subject to either or both of the following conditions namely -
 - (i) that such modifications shall be made to the deposited plans as the Authority may specify; and

(ii) that such further plans shall be deposited within such time as the Authority may specify; in order to bring the plans into conformity with Building Regulations; or

(c) if the Authority is advised by the Chief Physical Planner in the manner indicated by subsection (2), it may relax or, dispense with the requirements of Building Regulations mentioned in that recommendation and pass those plans.

(5) A person by whom, or on whose behalf, plans have been deposited shall, within 60 days or such extended time as may before the expiration of the period be agreed between him and the Authority, be notified in writing by the Chief Physical Planner whether those plans are passed or rejected.

(6) A notice of rejection of plans shall state the defects on account of which, or the Building Regulation or section of this Act for non-conformity with which, or under the authority of which, the plans have been rejected.

(7) A notice that plans have been passed shall -

(a) specify any condition subject to which they have been passed;

(b) if the plans have been passed by the Authority in exercise of any power to relax or dispense with any requirement of Building Regulations, or this Part, state the requirements of the Building Regulations or this Part, relaxed or dispensed with;

(c) in any case state that the notice that plans have been passed operates as an approval thereof only for the purposes of the requirements of Building Regulations and this Part, and does not constitute development permission.

(8) Any question arising between the Authority or the Chief Physical Planner and the person by whom or on whose

behalf plans are deposited as to whether -

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

may on the application of that person be determined by the Appeals Committee, but no such application may be made unless it is made before the proposed work has been substantially commenced if the question arising under the subsection is a failure on the part of the Chief Physical Planner or the Authority to pass or reject the plans within a time to be specified by the Minister.

Power to require removal or alteration of work.

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

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

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

67. (1) A person aggrieved by the giving of a notice under section 66 may appeal to the High Court.

Appeal against notices.

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

(a) if it determines that the Authority was entitled to give notice, confirm the notice; and

(b) in any other case, give the Authority a direction to withdraw the notice.

(3) An appeal under this section shall be brought within 28 days of the giving of notice under section 66 and the notice shall be of no effect pending the final determination or withdrawal of the appeal.

68. Where plans of any proposed work have been deposited in accordance with Building Regulations or this Part, and either the plans have been passed or notice of rejection of them has not been given in accordance with this Part, and the work to which the plans relate has not been substantially completed within 4 years of the deposit of those plans, the deposit of the plans shall be invalid and of no effect.

Lapse of deposit of plans.

PART VIII

COMPENSATION AND ACQUISITION

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

Claim for compensation.

(a) Where a grant of development permission has been revoked or modified by notice under section 34 -

(i) the holder of that permission, or his successor in title, has incurred expenditure necessarily arising out of commencing to develop or developing in accordance with that permission or has otherwise suffered loss or damage

directly attributable to such revocation or modification; or

- (ii) any person with an interest in the land or who has lent money on the security of the land, has suffered loss or damage directly attributable to such revocation or modification; or that
- (b) a person has suffered loss or damage by depreciation in the value of an interest in land by virtue of -
- (i) the refusal of the Authority, where a building has been destroyed by fire, hurricane or other natural disaster, to allow a building of similar cubic content to be erected in the same position, as near as can be, to the destroyed building and for the same purposes for which the destroyed building had been used prior to the fire, hurricane or other natural disaster;
 - (ii) the making of a notice under section 45 requiring any use of land to be discontinued or imposing conditions on the continuance thereof or requiring that buildings or works on land be altered or removed;
 - (iii) the making of a public access notice under section 52; or
 - (iv) the making of an environmental protection area order under section 57;

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

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

-
- (a) the development permitted by the development permission revoked or modified has not been carried out; or
- (b) the person claiming compensation acquired an interest in the land or building to which the development permission relates for valuable consideration, after the grant of that development permission and such development permission, at the material time, had not lapsed under the provisions of section 31.

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

(4) No compensation shall be payable under this section in respect of any work carried out before the grant of development permission which is revoked or modified, or in respect of any other loss or damage (not being loss or damage consisting of depreciation of the value of an interest in the land) arising out of anything done or omitted to be done before the grant of that permission.

(5) If a person has suffered loss or damage consisting of depreciation in value of an interest in land by virtue of a planning decision referred to in section 69 (1), compensation shall be payable in an amount equal to the difference between the value of the interest in the land and what the value would have been if the relevant decision had been a decision to the contrary effect, but no compensation shall be paid under this section in respect of loss or damage consisting of depreciation of the value of an interest in land where that value was attributed to use of the land or development thereon which was in breach of planning control.

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

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

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

- (a) he shall consult the views of the Authority, who after making such enquiries as it thinks fit shall submit its own recommendation on the matter to the Minister;
- (b) and it appears to the Minister that the decision which gave rise to the claim might properly be withdrawn or modified, he may refer the matter to the Appeals Committee for its determination as if the claim for compensation had included an appeal against the decision which gave rise to the claim;
- (c) and such claim for compensation cannot be settled through negotiation between the claimant and the Minister, the Minister shall refer the question as to whether any compensation is payable to the claimant, or as to the amount thereof, for decision by the High Court, which for the purpose shall be constituted as provided by the Land Acquisition Act, and the provisions of that Act shall apply *mutatis mutandis* to the assessment of compensation payable under this Part as they apply in the case of compensation payable under the Land Acquisition Act.

Ch. 53:02.

Ch. 53:02.

Position where land is subject to mortgage.

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

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

71. (1) Where a claim for compensation is made under section 69 notice of the fact shall -

Registration of claim for compensation.

- (a) be recorded in the register of planning applications; and
 - (b) be deposited with the Registrar of Titles.
- (2) Notices deposited under this section shall specify -
- (a) the land to which the claim for compensation relates;
 - (b) the relevant planning decision, notice, or order to which the claim for compensation relates; and
 - (c) the amount of the compensation and any apportionment of it among claimants.

Acquisition of land in lieu of compensation.

Ch. 53:01.

Purchase notice with respect to adverse decisions.

72. Where a claim for compensation under this Part, in respect of any interest in land has been determined in accordance with section 69, the Minister may, within one month after the date of the determination of such compensation and instead of having the same paid, cause to be made an offer in writing to purchase the interest in the land to which the claim for compensation relates, and if the person entitled to that interest is unwilling to sell the same, the Minister may forthwith cause the interest to be acquired compulsorily under and in accordance with the provisions of the Land Acquisition Act.

73. (1) Where any person having an interest in land for which -

- (a) a grant of development permission has been refused and there is available with respect to that land no development permission to which this Act applies;
- (b) development permission has been revoked or modified by imposition of conditions;
- (c) a discontinuance notice has been served under section 45;
- (d) a public access notice has been made under section 52; or
- (e) an environmental protection area order has been made under section 57;

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

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

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

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

(4) Where the Minister confirms a purchase notice, the Authority shall serve a notice on the owner to compulsorily acquire the interest of the owner in the land in accordance with the Land Acquisition Act.

Ch. 53:02.

PART IX

APPEALS

74. (1) There is hereby established an Appeals Committee which, in addition to the jurisdiction, power and authority conferred upon it by this Part and by any Regulations made here-

Establishment of
Appeals Committee.

under, shall advise the Minister on any matter which he may refer for its advice under the provisions of this Act.

(2) The Appeals Committee shall consist of not less than three nor more than five members appointed by the Minister of whom the Chairman shall be a legal practitioner of not less than 10 years standing, and the other members shall be appointed from among persons trained and experienced in -

- (a) physical planning;
- (b) architecture;
- (c) engineering;
- (d) environmental, coastal and marine matters.

(3) A member of the Appeals Committee shall hold office for a period not exceeding two years but such a member shall be eligible for reappointment.

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

(5) The Minister shall appoint a secretary to the Appeals Committee and such other officers as may be necessary to provide assistance to the Appeals Committee.

(6) The secretary shall keep a written record of all proceedings of the Appeals Committee which shall be confirmed by the Chairman.

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

(8) It shall be the duty of a member of the Appeals Committee who is in any way directly or indirectly interested in a matter coming before the Appeals Committee to declare the nature of his interest in the matter as soon as it is practicable for him to do so, and he shall take no part directly or indirectly in any

deliberation, discussion, consideration or similar activity by the Appeals Committee on that matter.

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

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

Right of appeal.

(2) An appeal shall lie to the Appeals Committee against any decision made by the Authority under this Act -

- (a) refusing a grant of development permission;
- (b) imposing conditions on a grant of developing permission;
- (c) refusing consent to display an advertisement;
- (d) any condition subject to which consent to display an advertisement has been granted;
- (e) rejecting building plans as being defective or in contravention of Building Regulations;
- (f) refusing to relax or dispense with the requirements of the Building Regulations;
- (g) modifying or revoking a grant of development permission;
- (h) requiring the completion of a development within a time limit;
- (i) imposing a building preservation order or a plant preservation order, except that no appeal shall lie against an interim building preservation order;

-
- (j) making an amenity order, on any of the grounds mentioned in section 50 (2);
 - (k) issuing a compliance notice or as to the terms thereof; or
 - (l) issuing a notice requiring discontinuance of use or alteration or removal of buildings or works.

(3) Subject to any provisions to the contrary in this Act an appellant wishing to appeal under subsection (2) shall -

- (a) within 42 days of the determination of the decision which is to be appealed against under subsection (2) (a) to (f);
- (b) within 42 days of the date on which the notice or order which is to be appealed against under subsection (2) (g) to (j) was served;
- (c) within the period specified in the notice as the period at the end of which the notice is to take effect in the case of a notice which is to be appealed against under subsection (2) (k) and (l);

send a Notice of Appeal to the secretary of the Appeals Committee who shall forthwith on receipt thereof send a copy of such notice to the Minister and the Authority.

(4) A notice given under subsection (3) shall set out -

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

(5) A notice given under subsection (3) shall be accompanied by -

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

(6) On receipt of a copy of the notice given under subsection (3) the Appeals Committee shall reject the notice of appeal if -

- (a) it appears not to comply with subsection (4); or
- (b) the appellant appears not to have any sufficient interest in the land to justify him appealing against the decision.

(7) Where a Notice of Appeal is not rejected under subsection (5), the Appeals Committee shall, in its discretion, direct whether the appeal shall be dealt with by public inquiry or by written representations and shall, within 28 days of receipt of the Notice of Appeal, notify the appellant and the Authority accordingly.

(8) The Appeals Committee shall take the following matters into consideration before deciding whether the appeal may be dealt with by written representations or by public enquiry -

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

(c) the importance of the matter to which the appeal relates.

(9) Where the Appeals Committee decides that a public inquiry shall be held, it shall notify the appellant and the Authority of the fact and of the time and place at which the public inquiry shall be held and a notice thereto shall be published in the *Gazette* and in at least one newspaper circulating in Dominica.

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

Procedure at public inquiries.

76. (1) It shall be the primary function of a public inquiry to examine the issues between the parties and to determine the merits of the appeal having regard to the purposes of this Act set out in section 3, the need to secure consistency in the execution of policy, any approved plan relevant to the issues and any other relevant considerations.

(2) Subject to the provisions of this Act and any Regulations, the Appeals Committee may determine the procedure to be followed at any public inquiry directed under section 75 as appears to it convenient to enable the functions referred in section 75 (2) to be fulfilled without being bound to adopt such procedure as might be appropriate in a court, provided that the Appeals Committee shall -

(a) at all times have regard to the rules of natural justice in the conduct of the proceedings for the determination of the appeal; and

(b) ensure, when hearing evidence of one party, that the other party has had an opportunity to consider that evidence and to make comment or representation on it.

(3) Without prejudice to the generality of subsection (1)-

(a) the Appeals Committee may hold a pre-inquiry review of the issues with the Authority and the

appellant and may issue directions in writing to both parties concerning-

- (i) the form and procedure to be adopted at the inquiry;
 - (ii) the dates and likely duration of the inquiry;
 - (iii) the Appeals Tribunal's identification of the issues to be examined;
 - (iv) the evidence required;
 - (v) whether third party agencies and persons who made representations or were consulted on the application are required to give evidence;
 - (vi) the incident of the burden of proof; and the standard of proof required;
 - (vii) the exchange of proofs of evidence;
 - (viii) the dates of any proposed site visits, giving both parties an opportunity to be present at the site visits;
 - (ix) any other matters which the Appeals Committee considers necessary for the fair and expeditious examination of the appeal;
- (b) there may be given and received in evidence at a public inquiry any material which the Appeals Committee may consider relevant to the subject matter of the inquiry whether or not it would be admissible in a court of law;
- (c) evidence at a public inquiry may be given on oath or affirmation or as unsworn evidence or partly as sworn evidence and partly as unsworn evidence, as the Appeals Committee may think fit;

-
- (d) any interested party may appear in person or may be represented by another person acting with his authority, whether or not the other person is a legal practitioner.

Record of proceedings of public inquiry.

77. (1) A record shall be kept of all public inquiries held by the Appeals Committee.

(2) The record under this section shall contain -

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

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

78. (1) Whenever the Appeals Committee has directed that an appeal to which section 75 relates shall be dealt with by written representations, the secretary to the Appeals Committee shall send a copy of the direction to the appellant and to the Authority and each of them shall within 6 weeks thereafter send to the Appeals Committee and to the other of them such written representations as they wish to make in relation to the appeal (herein referred to as “written representation”).

Appeals by written representations.

(2) Within 28 days of the receipt of the written representations of the other, or within the 6 weeks period specified in subsection (1), whichever is the later, the appellant and the Authority shall send to the Appeals Committee and to the other of them in writing such further representations as they may wish to make arising out of the written representations of the other.

(3) The Appeals Committee in deciding an appeal by written representations, shall not -

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

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

- (a) a list of the names and addresses of the parties;
- (b) a summary of the written representations submitted;
- (c) a list of all models, maps, plans, drawings, sketches, diagrams, photographs, petitions, and written statements submitted with the written representations;
- (d) the Appeals Committees findings of fact in relation to any relevant matter;

(e) a full and clear account of the reasoning of the Appeals Committee on which its decision is based; and

(f) the determination of the Appeals Committee as to the manner in which the appeal should be disposed of.

(5) The Appeals Committee acting in its discretion shall, following the expiration of the period specified in subsection (2), decide the appeal and in deciding shall have like powers to those under section 79 (1) (a), (b), (c), and (d).

Decision and
notification of appeal.

79. (1) The Appeals Committee in deciding whether to allow or dismiss an appeal may-

(a) allow the appeal in whole or in part and quash the decision of the Authority;

(b) if it allows the appeal in part, do so by varying the decision of the Authority in any manner and subject to any conditions or limitations it thinks fit, but not so as to impose any condition or requirement the Authority had no power under this Act to impose when making the decision or taking the action appealed against;

(c) correct any procedural defect in the decision or error of law in the order of the Authority appealed against; or

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

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

80. (1) Save as provided in this Act no appeal shall lie against a decision of the Authority in a matter to which section 75 relates otherwise than as provided for by sections 75 to 79 inclusive nor shall any such decision or order be reviewable in any manner by any court.

Appeals to the High Court.

(2) Save as otherwise provided in this section the decision of the Appeals Committee shall be final.

(3) An appeal shall lie to the High Court from a decision of the Appeals Committee on a point of law but not on any matter of fact and not in any manner upon the merits of the policies applied by the Authority or the Appeals Committee in reaching the relevant decision.

(4) An appeal to which subsection (3) relates shall be filed in the High Court within 28 days of the notification of the decision of the Appeals Committee.

PART X

MISCELLANEOUS AND SUPPLEMENTARY

81. (1) Subject to subsection (2), the Minister, any member of the Authority, the Chief Physical Planner, or any person authorised by him in writing, may during all reasonable working hours enter on any land or any building -

Powers of entry.

- (a) to inspect or survey the land, or any building for the purpose of the preparation of any development plan, or to decide on whether or not any development plan should be prepared under the provisions of Part III;
- (b) to obtain information relevant to the determination of any application for development permission or for any consents, licences or permits;
- (c) to determine whether any breach of planning control is being or has been undertaken on the land or in any building thereon;

-
- (d) to determine whether any order or interim order should be made under Part VI or for the exercise of any powers conferred by any such order;
 - (e) to determine whether or not any compensation is payable under Part VIII, or as to the amount thereof; or
 - (f) to ensure compliance with the Act and Regulations.

(2) Any person who intends to enter on any land or building under the provisions of this section, without the consent of the owner or occupier thereof, shall give such owner or occupier not less than twenty-four hours written notice of his intention so to do and the intended purpose of such entry; and if the person entering requires to search and bore for the purpose of examining the nature of the sub-soil, that fact shall be stated in the notice.

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

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

(5) If any damage is caused by reason of the exercise of any right of entry conferred by this section, or in the making of any survey for the purpose for which such right of entry was conferred, or by the wrongful or negligent use of powers conferred, or alleged to have been conferred, by this section, the Authority as soon as may be after such entry, shall pay compensation to the person injured thereby.

(6) If the amount of such compensation cannot be agreed, the amount payable shall be determined in the same manner as

compensation payable under section 69, and the Chief Physical Planner shall refer the matter accordingly.

(7) Nothing in subsection (2) or (5) applies in respect of any work or operation which the Minister, the Authority, or any public officer is authorised to do or carry out in relation to any building or land under Part VII or the Building Regulations and for the purposes of Part VII and those Regulations it is declared that the Minister, the Authority and any public officer has a right to enter on any land or in any building at all reasonable working hours -

- (a) for the purpose of ascertaining whether there is, or has been, on or in connection with the premises, a contravention of Part VII of this Act, or of the Building Regulations;
- (b) for the purpose of ascertaining whether or not circumstances exist that would authorize or require the Authority to take any action, or execute any work, under Part VII of this Act or under the Building Regulations;
- (c) for the purpose of taking any action, or executing any work, authorised or required by Part VII of this Act or the Building Regulations or by notice made under Part VII of this Act or under the Building Regulations; or
- (d) generally for the purpose of the performance by the Authority of its functions under Part VII of this Act of the Building Regulations.

(8) No compensation shall be payable in respect of the exercise of any power specified in this subsection.

(9) Any person who hinders or obstructs the Authority or any public officer in the exercise of any power of entry commits an offence and shall be liable on summary conviction to a fine of one thousand dollars or to imprisonment for six months.

Service of notices.

82. (1) Any notice or other document required or authorised to be given or served under this Act or under any regulation, order, direction or other instrument made under this Act may be served on or given to the person concerned -

- (a) by delivering it to that person;
- (b) by leaving it at the usual or last known place of abode of that person;
- (c) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode or, where an address for service has been given by that person, at that address;
- (d) in the case of a body corporate, or other body, by delivering it to the secretary or other officer of that body at its registered or principal office in Dominica, or by sending it in a prepaid registered letter addressed to the secretary or other officer of that body at that office; or
- (e) where a facsimile number or e-mail address has been provided by a person, by a facsimile or e-mail transmission which provides confirmation of receipt.

(2) In any case where a notice or other document has been served by a means other than personal delivery, it shall be deemed to have been served, given or delivered 4 days after it was left, nailed or affixed, as the case may be, or if it was sent by facsimile or e-mail, on the day after it was so sent.

Power to require information.

83. (1) For the purpose of enabling the Minister, the Authority or the Chief Physical Planner to make an order or serve a notice or other document under the provisions of this Act, the Chief Physical Planner may require the owner or the occupier of any premises, and any person who either directly or indirectly, receives rent in respect of any land or premises, to state in writing the nature of his interest therein, and the name and address of any

other person known to him to have an interest therein, whether as a freeholder, mortgagee, lessee or otherwise.

(2) Any person who, having been required in pursuance of this section to give any such information, without reasonable cause fails to give the information within 28 days of being so required, or such longer period as the Chief Physical Planner may allow in any particular case, commits an offence and is liable on summary conviction to a fine of five hundred dollars.

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

84. (1) The Chief Physical Planner shall maintain a register of all -

Register to planning decisions.

- (a) applications for a grant of development permission;
- (b) decisions on applications referred to in paragraph (a) and any conditions attached to development permissions;
- (c) notices of modification or revocation of grant of development permission;
- (d) compliance notices, stop notices, injunctions and discontinuance notices;
- (e) public access agreements or notices under sections 52 and 53;
- (f) any orders made or notices served under Part VI;
- (g) applications for approval of plans under the Building Regulations;

-
- (h) decisions on applications referred to in paragraph (g) and any conditions attached to approvals;
 - (i) development agreements under section 29;
 - (j) purchase notices under sections 48 and 73;
 - (k) applications for express consent to display advertisements under section 54;
 - (l) claims for compensation under section 69; and
 - (m) decisions on appeals against any decisions made or action taken under this Act.

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

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

Notification to Registrar
of Titles.

85. (1) The Chief Physical Planner shall notify the Registrar of Titles giving full details with respect to the parcels of land affected, of every -

- (a) modification or revocation of a grant of development permission;
- (b) compliance notice;
- (c) discontinuance notice;
- (d) building preservation order or interim building preservation order;
- (e) plant preservation order;
- (f) amenity order;
- (g) public access agreement or notice;

-
- (h) development agreement;
 - (i) claim for compensation; or
 - (j) purchase notice.

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

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

Death of person having claim or right.

87. (1) Any person who, without reasonable excuse -

Offences.

- (a) fails to comply with the requirements of -
 - (i) a compliance notice issued under section 36;
 - (ii) a notice to discontinue use or to alter or remove buildings or works issued under section 45;
 - (iii) a building preservation order or interim building preservation order made under section 47;
 - (iv) a plant preservation order made under section 49;
 - (v) an amenity order made under section 50;
- (b) fails to comply with any requirement of Part VII or of the Building Regulations made thereunder;
- (c) obstructs or hinders any person in the exercise of any right conferred under an access notice made under section 52;

-
- (d) wilfully gives false information, relating to any matter in respect of which he is required to give information under this Act;
 - (e) obstructs any person in the exercise of any powers or the performance of any duties under this Act; or
 - (f) fails to comply with any Regulations made with respect to the control of any activities in, or the management of, any environmental protection area,

commits an offence and is liable -

- (i) on summary conviction to a fine of five hundred dollars, and if, in the case of a continuing offence, the contravention is after such conviction, he commits a further offence and is liable to a fine of one hundred dollars for each day on which the contravention continues; or
- (ii) on conviction on indictment, to a fine of ten thousand dollars, or to imprisonment for six months, or to both such fine and imprisonment.

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

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

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

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

- (a) the form and scope of development plans;
- (b) the procedures for public representations during the preparation of a plan;
- (c) the procedures to be followed and the forms to be used in connection with -
 - (i) applications for a grant of development permission;
 - (ii) consultation on applications for development permission;
 - (iii) compliance notices;
 - (iv) the modification or revocation of a grant of development permission;
 - (v) claims for compensation;
 - (vi) purchase notices;
- (d) development which may be permitted under section 17 (2), without the requirement of a prior grant of development permission;
- (e) the designation of classes of development which are likely to derogate from amenity under section 22;
- (f) the management and protection of environmental protection areas and the preservation of any form of marine or other wildlife therein;
- (g) the procedures for environmental impact assessment and the form of environmental impact statements;

-
- (h) access to land for recreational purposes and to beaches;
 - (i) fees payable for the purposes of the Act;
 - (j) the procedures of the Authority;
 - (k) the qualifications required of person signing forms, plans and drawings on behalf of any applicant for development permission and the qualifications required of persons preparing environmental impact statements;
 - (l) the control of advertisements;
 - (m) the preservation of buildings or plants;
 - (n) the form of the register to be maintained under section 84;
 - (o) procedures of the Appeals Committee;
 - (p) Building Regulations.

Repeal.

89. The Town and Country Planning Act, 1975 is hereby repealed.

Act binds state.

90. This Act binds the State.

(Section 9 (4)(d).)

SCHEDULE I

MATTERS FOR WHICH PROVISION MAY BE MADE IN DEVELOPMENT PLANS

PART I

ROADS

1. Reservation of land for roads and establishment of public rights of way including public rights of way to and over beaches.

2. Closing or diversion of existing roads and public and private rights of way.

3. Construction of new roads and alteration of existing roads.

4. The line, width, level, construction, access to and egress from the general dimensions and character of roads, whether new or existing.

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

PART II

BUILDING AND OTHER STRUCTURES

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

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

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

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

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

PART III

COMMUNITY PLANNING

1. Providing for the control of land by zoning or designating specific uses.

2. Regulating the layout of housing areas including density, spacing, grouping and orientation of houses in relation to roads, open spaces and other buildings.

3. Determining the provision and siting of community facilities including shops, schools, churches, meetings halls, play centres and recreation grounds in relation to the number and siting of houses.

PART IV

AMENITIES

1. Allocation of lands as open spaces whether public or private.

2. Allocation of land for burial grounds and crematoria.

3. Allocation of lands-

- (a) for communal parks;
- (b) for game and bird sanctuaries;
- (c) for the protection of marine life;
- (d) for national parks and environmental protection areas.

4. Preservation of buildings, caves, sites and objects of artistic, architectural, archaeological, historical, or cultural interest.

5. Preservation or protection of forests, woods, trees, shrubs, plants and flowers.

6. Protection of the coastal zone, designation of marine parks, special resource and special use areas.

7. Prohibiting, restricting or controlling, either generally or in particular places, the exhibition, whether on the ground, or any building or any temporary erection, whether on land or in water, or in the air, of all or any particular forms of advertisement or other public notices.

8. Preventing, remedying or removing injury to amenities arising from the ruinous or neglected condition of any building or fence, or by the objectionable or neglected condition of any land attached to a building or fence or abutting on a road or situate in a residential area.

9. Prohibiting, regulating and controlling the deposit or disposal of waste materials and refuse, the disposal of sewage and the pollution of rivers, lakes, ponds, gullies beaches and the seashore.

PART V

PUBLIC SERVICES

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

PART VI

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

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

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

PART VII

MISCELLANEOUS

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

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

(a) regulating the type of development to be carried out and the size and form of plots;

(b) requiring the allocation of land for any of the public services referred to in Part V or for any other

purposes referred to in this Schedule for which land may be allocated;

- (c) prescribing the character and type of public services or other works which shall be undertaken and completed by any applicant for permission to sub-divide as a condition of the grant of such permission;
- (d) co-ordinating the sub-division of contiguous properties in order to give effect to any scheme of development appertaining to such properties.

3. Making any provisions necessary for -

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

SCHEDULE II

(Section 18(3) and 23).

MATTERS FOR WHICH ENVIRONMENTAL
IMPACT ASSESMENT SHALL BE REQUIRED

1. Hotels of more than twelve rooms;
2. Sub-divisions of more than six plots;
3. Residential development of more than six units;
4. Any industrial plant which in the opinion of the Authority is likely to cause significant adverse environmental impact;
5. Quarrying and other mining activities;

-
6. Marinas;
 7. Land reclamation, dredging and filling of ponds;
 8. Airports, ports and harbours;
 9. Dams and reservoirs;
 10. Hydro-electric projects and power plants;
 11. Desalination plants;
 12. Water purification plants;
 13. Sanitary land fill operations, solid waste disposal sites and other similar sites;
 14. Gas pipeline installations;
 15. Any development projects generating or potentially generating emissions, aqueous effluent, solid waste, noise/vibration or radioactive discharges;
 16. Any development involving the storage and use of hazardous materials;
 17. Coastal zone developments;
 18. Development in wet lands, marine parks, national parks, conservation areas, environmental protection areas or other sensitive environmental areas.

Passed in the house of Assembly this 16th day of April, 2002.

ALEX F. PHILLIP (Mrs.)
Clerk of the House of Assembly

DOMINICA

Printed by the Government Printer at the Government Printery, Roseau

(Price \$23.60)