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ACT

No. 17 of 2016

I assent

PRO. ARTHUR PETER MUTHARIKA

PRESIDENT

1st September, 2016

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## SCHEDULES

**An Act to make provision for physical planning and the orderly and progressive development of land in both urban and rural areas; to preserve and improve amenities thereof; for the grant of permission to develop land and for other powers of control over the use of land; for the establishment of the Physical Planning Council; for the establishment of the Physical Planners Board; for the registration and regulation of physical planners and for matters connected therewith and incidental thereto.**

ENACTED by the Parliament of Malawi as follows—

## PART I—PRELIMINARY

1. This Act may be cited as the Physical Planning Act, 2016 and shall come into force on such a date appointed by the Minister by notice published in the *Gazette*.

Short title and commencement

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

Interpretation

“accelerated development area order” means an order made, and referred to as such, under section 66;

“advertisement” means any word, letter, model, sign, placard, board, notice, poster, device or representation, whether illuminated or not, in the nature of, and employed wholly or in part for the purposes of advertisement, announcement or direction (excluding any such thing employed wholly as a memorial or as a railway signal), and without prejudice to the foregoing includes any hoarding or similar structure used or adapted for use for the display of advertisements;

“authorized officer” means a person authorized under section 5(2) to carry out the functions of the Commissioner;

“Board” means the Physical Planners Board established under section 73;

“building” means any building, erection or structure erected on or made on, in or under any land and includes the land on, in or under which the building, erection or structure is situated;

“building operations” includes any road or other works, preliminary or incidental to the erection of a building;

“building preservation order” means an order made, and referred to as such, under section 65;

“Commissioner” means the Commissioner for Physical Planning appointed under section 4;

“Council” means the Physical Planning Council established under section 8;

Act No. 19 of  
2016

“customary land committee” bears the meaning ascribed to it in the Customary Land Act, 2016;

“development” in relation to any land means any building, rebuilding, engineering or mining operations in, on, under or over land and any material change in the use of land or building;

“development permission” means permission granted under section 46;

“district physical development plan” means a plan referred to under section 29;

“enforcement notice” means a notice served under section 55;

“exempted development” means development exempted by section 43 from the operation of this Act;

“improvement area order” means an order made under section 63;

Act No. 16 of  
2016

“land” bears the meaning ascribed to it in the Land Act, 2016;

“land development control area” means an area declared as such by the Minister by order published in the *Gazette* under Part VI;

“land development control area order” means an order made, and referred to as such, under Part VI;

Cap 22:01

“local government authority” bears the same meaning as ascribed to it under the Local Government Act;

Cap 22:01

“local government area” bears the same meaning as ascribed to it under the Local Government Act;

“local physical development plan” means a plan referred to in *Division IV of Part IV*;

“National Physical Development Plan” means a plan referred to in *Division II of Part IV*;

“notice of revocation” means a notice served under section 51 of this Act, revoking a grant of development permission to the extent set out in the notice;

“permitted development” means the development specified in the *First Schedule*;

“plan” means a plan made under this Act;

“planning committee” means a planning committee appointed under section 19;

“Registrar” means the Registrar appointed under section 82;

“responsible authority” in relation to—

(a) a local government area, means the local government authority of that area; and

(b) any other area, means the Commissioner;

“stop notice” means a notice served under section 59;

“subdivision” means the division of any piece of land for the purpose of parting with possession of, or disposing of any portion thereof, either by way of lease or sale or for the erection of a building upon any portion;

“subdivision agreement” includes any agreement whereby any person is given—

(a) any right whether vested or contingent to acquire, lease, or obtain possession of any portion of land, whether immediately or upon fulfillment of any condition or upon the happening of any event, or after the lapse of any time, or upon the exercise of any option or the payment of any sum, whether by installments or otherwise; or

(b) a right to erect a building on any portion of land belonging to some other person;

“Traditional Land Management Area” bears the meaning ascribed to it under the Land Act, 2016; and

Act No. 16 of  
2016

“vacant land development area order” means an order made and referred to as such, under Part VI.

3. This Act shall apply to all types of physical development by any person or Government agency.

Application

## PART II—ADMINISTRATION

4. There shall be a Commissioner for Physical Planning who shall be a public officer.

Commissioner  
for Physical  
Planning

5.—(1) The Commissioner shall be responsible for—

Duties of the  
Commissioner

(a) formulating national and regional physical development policies, guidelines and strategies;

(b) preparing and reviewing the National Physical Development Plan;

(c) approving district and local physical development plans and ensuring that such plans are in line with the National Physical Development Plan;

(d) initiating, undertaking or directing studies and research into matters concerning physical planning from time to time;

(e) advising the Commissioner for Lands and local government authorities on the most appropriate use of land;

(f) ensuring that local government authorities are properly executing physical development control and preservation orders; and

(g) carrying out any other duties pursuant to the objectives of this Act.

(2) The Commissioner may, in writing, delegate any of his functions under this Act to any officer subordinate to him or to any public officer who is authorized, either specially or generally, in that behalf.

Delegation of powers by the Minister

6. The Minister may, subject to special or general directions, delegate all or any of the powers or duties conferred by this Act to the Commissioner.

Indemnity of public officers

7. A public officer shall not incur any liability in respect of the exercise or performance or purported exercise or performance by him, in good faith, of any function under and for the purposes of this Act.

### PART III—PLANNING AUTHORITIES

Establishment of the Physical Planning Council

8. There is hereby established a Council to be known as the Physical Planning Council which shall have powers and functions as are conferred upon it by this Act.

Composition of the Council

9.—(1) The Minister shall appoint members of the Council on recommendation from various relevant professional bodies regulating the professions listed in subsection (2) (a) and on recommendation from various relevant civil society organizations in the areas listed in subsection (2) (b).

(2) The composition of the Council shall be not less than 40 per cent and not more than 60 percent of either sex—

(a) a representative of a professional body with experience in, or knowledge of, the following areas—

- (i) physical planning;
- (ii) land management and valuation;
- (iii) economics;
- (iv) law;
- (v) civil engineering;



- (vi) land surveying;
- (vii) quantity surveying; and
- (viii) architecture;

(b) a representative of civil society with experience in, or knowledge of, the following areas—

- (i) social welfare and community services;
- (ii) environment; and
- (iii) rural development; and

(c) *ex-officio* members consisting of—

- (i) a resident magistrate in charge of a region;
- (ii) Commissioner for Lands;
- (iii) Surveyor General;
- (iv) Director of Environmental Affairs; and

(v) such senior public officers as the Minister may designate, performing technical or professional duties in relevant Government ministries and departments.

10. A person who—

(a) is an undischarged bankrupt;

(b) has been convicted of an offence under this Act;

(c) has, within the preceding three years, been convicted of an offence under any written law and sentenced to a term of imprisonment; or

(d) has been convicted within the preceding six years of an offence involving dishonesty or fraud,

shall be disqualified from appointment to, or continue to hold office as a member of the Council.

Disqualifica-  
tion of a  
member

11.—(1) The office of a member of the Council, not being an *ex-officio* member, shall become vacant where—

(a) the member dies;

(b) the member resigns; and

(c) in accordance with section 10, he becomes disqualified from continuing to hold the office.

(2) A vacancy in the Council shall be filled by a person appointed in accordance with section 9.

(3) The Minister shall cause a notice of every appointment to the Council to be published in the *Gazette* and shall, in such notice, publish the new membership of the Council.

Vacancies

Chairperson  
and Vice-  
Chairperson  
of the Council

**12.**—(1) There shall be a Chairperson and a Vice Chairperson of the Council who shall be elected by the Council from among the members, at the first meeting of the Council convened by the Commissioner.

(2) The election of the Chairperson and the Vice Chairperson of the Council shall be by secret ballot and by a simple majority.

(3) An *ex-officio* member of the Council shall not be eligible to be elected as Chairperson or Vice Chairperson.

Proceedings of  
the Council

**13.**—(1) The Chairperson or in his absence the Vice Chairperson shall preside at all meetings of the Council.

(2) In the absence of both the Chairperson and the Vice Chairperson, the members present shall elect a member amongst themselves to preside over that meeting.

(3) The quorum at any meeting of the Council shall be constituted by a simple majority.

(4) Decisions of the Council on any matter shall be in accordance with the vote of the majority of members present and voting thereon, but in the event of an equality of votes, the Chairperson or the presiding member at the meeting concerned, shall have a casting vote in addition to his deliberative vote.

(5) The Council shall regulate its own procedure.

Tenure of office  
of members of  
the Council

**14.** A member of the Council who is not an *ex-officio* member shall hold office for a term of three years which may be renewable once.

Functions of  
the Council

**15.** The functions of the Council shall be to—

(a) hear and determine appeals lodged by a person aggrieved by the decision or action of any planning committee or the Commissioner;

(b) hear and determine physical planning matters referred to it by any planning committee;

(c) advise the Minister on broad planning policies, planning standards and social and economic liability of any proposed subdivision of urban or rural land;

(d) study and give guidance and recommendations on issues relating to physical planning which transcend more than one local government authority for purposes of co-ordination and integration of physical development;

(e) advise the Minister on the approval of the National Physical Development Plan;

(f) approve applications for development permission of national interest referred to it by any planning committee or the Commissioner; and

(g) do all such acts, matters and things as may be necessary for fulfilling the objectives of the Council.

16. The funds of the Council shall consist of—

Funds of the Council

(a) such sums of money as may be appropriated by Parliament to the Council for its functions; and

(b) such money or other property as may be payable to or vest in the Council pursuant to this or any other written law or pursuant to any trust or gift.

17. The Commissioner shall appoint a public officer who shall serve as secretary to the Council.

Secretary to the Council

18. Any member of the Council shall not incur any liability in respect of the exercise or performance or purported exercise or performance by him in good faith of any of the functions of the Council under this Act.

Limitation of liability of members of the Council

19.—(1) A local government authority shall appoint a planning committee for its area of jurisdiction which shall be the responsible planning authority for the area and shall exercise any duties as are conferred by this Act.

Appointment of planning committees

(2) Where an area earmarked for physical development lies within the boundaries of two or more local government authorities, the respective local government authorities may appoint a joint planning committee.

(3) Pursuant to subsection (2), a joint planning committee may be appointed to exercise powers and duties in respect of more than one local government area.

20.—(1) A planning committee shall consist of the following members—

Composition and procedure of a planning committee

(a) in the case of a City Council, Municipal Council or Town Council—

(i) the Director of Planning and Development who shall be the Secretary;

(ii) the Urban Physical Planning Officer;

(iii) the Urban Lands Officer;

(iv) the Urban Engineer;

(v) the Urban Surveyor;

(vi) the Urban Water Engineer;

- (vii) the Urban Architect;
- (viii) the Director of Social Services of the Council;
- (ix) the Urban Environmental Officer;
- (x) a member of the Urban Development Committee;
- (xi) a member of the Urban Works Committee; and
- (xii) a registered Physical Planner in private practice duly appointed by the Commissioner on recommendation from the Physical Planners Board; and

(b) in the case of a District Council—

- (i) the District Physical Planning Officer who shall be the Secretary;
- (ii) the District Lands Officer;
- (iii) the District Engineer;
- (iv) the District Surveyor;
- (v) the District Agricultural Officer;
- (vi) the District Education Officer;
- (vii) the District Community Development Officer;
- (viii) the District Public Health Officer;
- (ix) the District Environmental Officer;
- (x) a member of the District Development Committee;
- (xi) a member of the District Works Committee; and
- (xii) a registered physical planner in private practice duly appointed by the Commissioner on recommendation from the Physical Planners Board.

(2) The members shall, at the first meeting of the planning committee, elect a chairperson from amongst their number.

(3) The planning committee shall elect its chairperson by secret ballot and by a simple majority.

(4) An *ex-officio* member of the planning committee shall not be eligible to be elected as chairperson.

(5) A planning committee may regulate its own procedure.

Powers of  
Minister to  
make inquiries  
and seek advice

21. The Minister may, where he considers appropriate, cause inquiries to be made, seek advice or consult any authority, person or body of persons, on any matter concerning physical planning in Malawi.

#### PART IV—PLANS AND PLAN MAKING

##### Division I—General

22.—(1) The responsible authority shall furnish the Minister with such particulars and information as the Minister may require concerning the preparation and content of any plan on the present and future planning needs and the probable direction and nature of development of any area in respect of which a plan may be prepared.

Duties and powers of responsible authority with regard to plans generally

(2) The responsible authority may seek such information and opinions and consult with such persons and organizations as may be necessary to ensure the proper and expeditious preparation of a plan and all such persons and organizations shall to the extent that they are able, comply with such requests for information and opinions.

(3) Where a plan is being prepared which will or is likely to involve—

(a) the movement or relocation of people from their homes and places of work;

(b) the acquisition of land in the area or the redistribution of land; or

(c) the readjustment of the boundaries and areas of plots of land,

the responsible authority shall, before reaching a decision on the matter, cause the substance of those proposals in the plan to be made known throughout the area of the plan in such manner as is likely to be effective for the purpose of bringing the proposals to the attention of all persons affected by them and shall consider and take into account any representations made concerning the proposals.

23.—(1) When a plan, other than a National Physical Development Plan has been prepared, a copy shall be placed on deposit at the office of the local government authority responsible for the area.

Consideration of plans other than a National Physical Development Plan

(2) Notice of such deposit and of the period in which any person may inspect and make representations on a plan shall be published in the *Gazette* and in at least one issue of a newspaper in general circulation in Malawi.

(3) The responsible authority shall cause the substance of the plan to be made known throughout the area for which it has been prepared in such manner as it considers to be most effective for the purpose of bringing it to the attention of the people residing or working in that area.

(4) The responsible authority may hold meetings with any persons or organization for the purpose of explaining the proposed plans and receiving representation and comments thereon.

(5) After the expiry of the period of inspection as published under subsection (2), the responsible authority shall submit the plan to the Commissioner together with all such representations and comments and any recommendations made on them by the responsible authority for his consideration.

*Division II—National Physical Development Plan*

National  
Physical  
Development  
Plan

24. A National Physical Development Plan shall consist of such development statements of policies and principles and such background studies, reports, maps, plans and other materials containing such information and analysis of demographic, economic, energy, environmental, land use and tenure, physical, rural, social welfare, transportation, settlement patterns in rural and urban areas, urban and other like matters as are necessary to enable the plan to achieve its purpose.

Purpose of  
a National  
Physical  
Development  
Plan

25.—(1) The purpose of a National Physical Development Plan shall be to—

(a) provide a spatial framework for the coordination and implementation of programmes and projects of development;

(b) assist with the development of an ordered hierarchy of urban and rural growth centres so as to contribute to a balanced pattern of development and an economical use of resources and facilities; and

(c) provide guidelines for the development of services and facilities to desirable standards.

Responsibility  
for the  
preparation  
and review of  
the National  
Physical  
Development  
Plan

26.—(1) The Commissioner shall be responsible for the preparation and review of the National Physical Development Plan.

(2) The Commissioner may delegate the responsibility for the preparation of a physical development plan to a registered physical development planner in private practice.

(3) The Minister may require such information policies and proposals as he may consider appropriate, to be included in a National Physical Development Plan at the stage of its preparation.

Approval of  
National  
Physical  
Development  
Plan

27.—(1) When a National Physical Development Plan (in this section referred to as the "Plan") has been prepared, it shall first be submitted to the Council for its consideration and endorsement.

(2) Once the Council endorses the Plan, the Commissioner shall submit the Plan to the Minister for approval.

(3) The Minister may place the Plan or an official summary thereof, before Parliament for its information.

(4) The Minister may seek such advice on, and give such publicity to, the Plan as he considers appropriate.

(5) The Minister may approve the Plan with or without amendments or reject it in whole or in part.

28. Where the Minister approves a National Physical Development Plan or where a National Physical Development Plan has been prepared but has not yet been approved by the Minister, all district physical development plans and all local physical development plans and all programmes or projects of development shall, as far as is practicable, be so formulated and prepared to have regard to, and take into account, the policies and principles of the National Physical Development Plan so approved or prepared.

Status of a  
National  
Physical  
Development  
Plan

*Division III—District physical development plans*

29.—(1) A district physical development plan shall include—

(a) a technical report on the conditions, resources and facilities of the district;

(b) a statement of policies and proposals directed to assist the making of decisions or the allocation of resources and the location of physical development within the district;

(c) such information about the description and analysis of the conditions of development in the district as may be necessary to explain and justify the statement of policies and proposals;

(d) background studies and reports;

(e) maps and plans showing present and future land uses and development; and

(f) such other matters as the Commissioner may request.

(2) A district physical development plan may be made for—

(a) the whole or part of a district;

(b) more than one district; or

(c) parts of more than one district.

(3) A district physical development plan made for part of a district or parts of more than one district shall be given a special name as appropriate other than that of the district or districts to which the plan relates.

30. The purpose of a district physical development plan shall be to—

(a) elaborate on, and to apply, the principles and policies of the National Physical Development Plan, if any is in existence in so far as they are relevant to the district;

District  
physical  
development  
plans

Purpose of  
a district  
physical  
development  
plan

(b) provide a survey of the conditions, resources and facilities within the district to which it relates;

(c) identify the growth and service centres, the priorities and possible locations of major public investments and the communication and transportation facilities within the district; and

(d) formulate a general land use plan for the district.

Responsibility for preparation of a district physical development plan

**31.—**(1) A local government authority shall be responsible for the preparation of a district physical development plan of the district for which it is responsible and may comprise of a joint planning committee from two or more local government authorities.

(2) A local government authority may delegate the responsibility for the preparation of a district physical development plan to a registered physical planner in private practice.

(3) A local Government authority shall submit its district physical development plan to the Commissioner for approval.

Status of district physical development plans

**32.—**(1) Where a district physical development plan has been approved by the Commissioner in respect of the whole or part thereof, all plans, programmes and projects of development proposed for the district or that part for which have been approved and all plans for areas bordering on or adjacent to the district shall, as far as is practicable, be so formulated and prepared as to have regard to, and take into account, the district physical development plan.

(2) When a district physical development plan has been prepared but not yet approved, all local physical development plans and all programmes and projects for development within the district shall, as far as is practicable, be so formulated and prepared as to have regard to, and take into account, the district physical development plan.

#### *Division IV—Local physical development plans*

Types of local physical development plans

**33.—**(1) The following are the types of local physical development plans that may be prepared—

(a) an urban structure plan, which shall be a land use plan for the whole of an urban area;

(b) an urban layout plan, which shall be a detailed land use plan of a part of an urban area in which significant physical development is planned or likely to or has begun to take place or there is need for development or redevelopment or revision or upgrading;

(c) an urban civic plan, which shall be a more elaborate design



of a special area or areas of an urban area showing layout of buildings, car parking lots and landscaping among other details; and

(d) a subject physical development plan, which shall be a plan concerned with a particular subject matter.

(2) A local physical development plan, other than a subject physical development plan, shall be named after the place or area to which it relates and the kind of plan it is.

(3) A subject physical development plan shall be named after the particular subject matter with which it is concerned.

(4) More than one local physical development plan may be applied to any one area or place at the same time and one local physical development plan may apply to more than one area at the same time.

34.—(1) A local physical development plan shall include the following—

Contents of local physical development plans

(a) a summary of the principal features of the plan;

(b) a statement of the existing conditions of the place or area or subject matter with which the plan is concerned;

(c) a statement on planning policies and proposals;

(d) a statement on the relationship between the plan and the district physical development plan to which it would relate and any other local physical development plans adjacent to it;

(e) maps and plans to show present and future land and transportation uses and the location of proposed developments; and

(f) guidance on land uses for purposes of making decisions on applications for development permission.

(2) The Commissioner may require any other matter to be included in any local physical development plan.

35.—(1) A local government authority shall be responsible for the preparation of local physical development plans for the area within its jurisdiction.

Responsibility for preparation of local physical development plans

(2) A local government authority may delegate the responsibility for the preparation of such plan to a registered physical planner in private practice.

(3) The Commissioner may require any other matter to be included in any local physical development plan.

Approval of  
local physical  
development  
plans

**36.—**(1) When a local physical development plan has been prepared it shall be submitted to the Commissioner for approval.

(2) The Commissioner may approve the plan with or without amendments or reject it in whole or in part within sixty days of its submission.

Status of local  
physical  
development  
plans

**37.—**(1) When a local physical development plan has been approved by the Commissioner—

(a) all Government departments and all statutory bodies shall have due regard to the plan in formulating and preparing any project of public investment and development within the area to which the plan applies;

(b) a local government authority responsible for the preparation of such plan and having jurisdiction in the area to which such plan relates shall, in considering any application for development permission, have due regard to and, so far as is practicable, comply with the plan; and

(c) the planning committee shall in considering any application for development permission, have due regard to and, so far as is practicable, comply with the plan.

(2) When a local physical development plan is in course of preparation or has been prepared but not yet been approved, all Government departments and all statutory bodies, shall, so far as is practicable in respect of their proposals for public investment and development or their decisions on applications for development permission, have regard to such policies and proposals as have been or are likely to be included in the plan.

Deposit of  
approved plan

**38.—**(1) Where a plan has been approved by the Minister or Commissioner, as the case may be, in respect of the whole or part of the area for which it has been prepared, a copy of that plan shall be deposited in such places within the area and its substance shall be made known throughout the area in such manner as the Minister or Commissioner may direct.

(2) Any approved plan shall be a public document and shall be available for inspection and use by members of the public at all reasonable times at the offices of the responsible authority and at such other places within the area to which the plan applies as the Minister shall direct.

Review,  
modification  
and  
amendments  
of plans

**39.—**(1) The Minister or Commissioner, as the case may be, may require the responsible authority to review, or prepare amendments and modifications to, any plan or any part thereof.

(2) The responsible authority may review, modify and amend any plan that has been prepared, whether or not it has been approved by the appropriate authority, as is in the opinion of the responsible authority necessary to take into account the changing circumstances of the area to which the plan relates.

(3) The provisions of sections 22 and 23 shall apply to any review, amendment or modification of a plan.

(4) Where the plan was initially approved by the Minister, the responsible authority shall submit to the Minister any modifications and amendments to a plan for his approval and if the Minister is of the opinion that new substantial policies and proposals are being introduced into the plan, he may prior to the grant of his approval therefor, direct inquiries to be made under section 21.

(5) Where the plan was initially approved by the Commissioner, the responsible authority shall submit to the Commissioner any modifications and amendments to a plan for his approval.

40.—(1) The Minister may, as the case may be, by order published in the *Gazette*, revoke any plan or part of a plan but such revocation shall not render illegal any action that has been taken by a responsible authority or any other person under, or in pursuance of such a plan. Revocation  
of plans

(2) Any action in the process of being taken by a responsible authority or by any other person under or in pursuance of a plan that has been revoked shall unless the order of revocation otherwise provides, cease to be taken and if continued thereafter shall have no effect.

(3) Upon revocation of a plan under subsection (1), the Minister or Commissioner shall cause the substance of the revocation order to be made known in the area to which the plan applies in such manner as the Minister or Commissioner shall direct.

41.—(1) Where there is any conflict or discrepancy between the policies and proposals of an approved district physical development plan and an approved local physical development plan applicable to the same area or between two or more approved local physical development plans applicable to the same area, the policies and proposals of the approved district physical development plan or, as the case may be, the most recently approved local physical development plan shall prevail. Conflict  
between plans

(2) Where there is a conflict between an approved plan and a plan that has been prepared but not yet approved, the policies and proposals of the approved plan shall prevail.

(3) Where there is a conflict between two or more plans applicable to the same area none of which have been approved, a district physical development plan shall prevail over any other plan or plans.

Preparation  
and use of  
plans by the  
Commissioner

42. Nothing in this Part shall be construed as to prevent the preparation and use by the Commissioner of plans within an area under the jurisdiction of a local government authority.

#### PART V—DEVELOPMENT CONTROL AND ENFORCEMENT

##### *Division I—Development Control*

Public land  
which is  
unallocated  
customary  
land  
Act. No. 19 of  
2016

43.—(1) Nothing in this Part shall affect the mandate of a customary land committee under the Customary Land Act, 2016 to authorize the use and occupation of any customary land within its area in accordance with the Customary Land Act, 2016, but where such land is in a land development control area, such authorization shall not operate as a development permission and it shall be the duty of the occupant of the customary land to apply for development permission unless the proposed development is an exempted development under this Act.

(2) An exempted development under this Part is—

(a) the erection of a building of a traditional nature within the recognized boundaries of a village;

(b) the erection of a traditional house outside the generally recognized boundaries of a village, however, this shall not authorize or render the lawful erection of such a house within a road reservation or on land where all development is prohibited;

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leg.

(c) the erection of a house made with non-permanent materials but in such case the provisions of the Public Health (Minimum Building Standards for Traditional Housing Areas) Rules or any rules replacing those rules shall apply to such a house;

(d) the erection of houses and other buildings in accordance with a simple layout plan prepared by or approved by a planning committee for use by a Traditional Authority and customary land committees in the authorization of the use and occupation of customary land in a Traditional Land Management Area; and

(e) the use of customary land in accordance with a layout plan approved by a planning committee for use by a Traditional Authority and customary land committees in the authorization for small-scale commercial and manufacturing purposes in buildings made with non-permanent materials.

(3) Where a simple layout plan has been prepared or approved by the responsible authority, it shall be explained to and discussed with the Traditional Authority and all the customary land committees to whose Traditional Land Management Area the plan relates.

(4) Where a simple layout plan under subsection 2(d) has been given to a Traditional Authority, all customary land committees under his jurisdiction shall, in any case where it is intended to authorize the use and occupation of customary land for the erection of any building within a declared area, comply with the provisions of that plan.

(5) Where a customary land committee fails to comply with a layout plan in its authorization of use and occupation of customary land for the erection of any building, the Minister may, where the customary land is within a land development control area and after consultation with a planning committee, declare such land to be Government land under the Land Act, 2016.

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2016

(6) The Minister shall cause the substance of this section to be made known throughout those parts of any declared area where the land is customary land, in such manner as he considers most effective, for the purpose of bringing it to the attention of any Traditional Authority and relevant customary land committees having authority over that customary land.

44.—(1) The types and classes of development set out in the *First Schedule* hereto shall, to the extent provided, be permitted development under this Act and shall be exempt from development permission under this Act.

Permitted  
development

(2) The Minister may by order published in the *Gazette*, amend the *First Schedule*.

45. The types of development permission that may be granted under this Part are as follows—

Types of  
permitted  
development

(a) an outline development permission and development permission for development anywhere in Malawi including within a land development control area;

(b) an advertisement permission for the display of advertisements anywhere in Malawi; or

(c) a subdivision permission for the subdivision of land within a subdivision control area.

46.—(1) An application for development permission under this Part shall be—

Application  
for  
development  
permission

(a) made to—

(i) a local government authority, in case of any development within the area of its jurisdiction; or

(ii) the Commissioner, in every other case;

(b) in a prescribed form; and

(c) accompanied by a prescribed fee payable to Government, and shall include such other information as the local government authority or the Commissioner may require.

(2) An application for development permission shall be submitted by a registered physical planner being an agent of the applicant.

(3) Where the development permission applied for is of national interest, the local government authority or the Commissioner, as the case may be, shall forward the application to the Council for approval.

(4) The responsible authority may, by written notice served on an applicant for the grant of a development permission require the applicant to do either or both of the following—

(a) publish details of his application at a time or times in a place or places and in a manner specified in the notice; or

(b) give details of his application to the persons and authorities and in a manner specified in the notice.

(5) Pursuant to the notice given in subsection (3), a person with an interest in the published notice may make a submission outlining his interest in the publication, to the responsible authority.

(6) In making its decision on an application for a grant of development permission, the responsible authority shall take into account any submission made under subsection (4).

(7) A responsible authority shall in writing notify the applicant for a development permission of its decision on the application, giving, where it grants the permission, the conditions, if any, upon which it is granted and, where it refuses the permission, a brief of reasons for the refusal.

(8) The responsible authority shall, within thirty days of the receipt of an application for development permission, inform the applicant of the decision on the application, or where no decision has been taken, of the progress on the application, and the likely date by which a decision will be taken.

Power to obtain  
information  
concerning  
applications

47.—(1) The responsible authority, may by written notice served on the applicant for the grant of a development permission require the applicant to—

(a) furnish the responsible authority, within such time as is specified in the notice, with such further information relevant to the application as may be specified in the notice; or

(b) permit the responsible authority to enter on the land to which the application for the grant of development permission relates so as to enable it to view the site and the adjacent lands and developments.

(2) Where the applicant for the grant of development permission does not have such an interest in the land to which the application relates as would enable him to permit the responsible authority to enter the land, he shall obtain that permission from the person having such interest.

(3) The responsible authority may defer a decision on an application for the grant of development permission until the responsible authority is satisfied on the matters in respect of which it requires information or permission to enter on the land to which the application relates has been granted, provided that any deferment to make a decision under this subsection shall not exceed a period of sixty days.

(4) Where the responsible authority does not make a decision within sixty days, the applicant may appeal to the Council.

48.—(1) The Minister may from time to time, by order published in the *Gazette*, or in any individual case, by directions or instructions in writing under his hand, withdraw an application or class of applications for development permission from the jurisdiction of the responsible authority and reserve the power to make a decision on that application or class of applications to himself.

Power of  
Minister  
concerning  
applications

(2) The power of the Minister under subsection (1) may be exercised in respect of any application that has been made to the responsible authority and in such case the responsible authority shall cease to take any action in respect of the application and shall send it together with any information concerning it to the Minister.

(3) An application to which subsection (1) relates, shall be deemed to have been made to the Minister and the Minister shall, in addition to any other powers conferred on him by this Act, have all the powers of a responsible authority under this Part in connection with such application.

(4) The Minister may refer any application to which subsection (1) relates to the Council for its advice or decision.

49.—(1) A responsible authority may, on receipt of an application for development permission, consult with and seek information from any of the following persons and authorities as may be

Consultation  
in relation to  
applications

necessary for the satisfactory disposal of the application—

(a) the Commissioner for Lands;

(b) the Controller of Roads;

(c) the person or authority responsible for the provision of other basic infrastructural services to the land to which the application relates;

(d) the Director of Environmental Affairs; and

(e) such other person and authorities as the responsible authority may see fit to consult or seek information from.

(2) The persons or authorities referred to in subsection (1) or their representatives may be invited to attend and speak, without a right to vote, at any meeting convened by the responsible authority to consider any application for development permission.

(3) The persons or authorities referred to in subsection (1) shall, where they are not invited, or are unable, to attend a meeting convened by the responsible authority to consider an application for development permission, provide the information or advice requested by the responsible authority within fourteen days of the receipt of the request or where that is not practicable, they shall inform the responsible authority when they are likely to be able to provide that information or advice.

(4) The responsible authority shall not decide on any application for development permission in respect of which it has requested information or advice from any of the persons or authorities referred to in subsection (1), until after the receipt of that information or advice or fourteen days have elapsed since such information or advice was requested whichever is the sooner.

Consideration  
of applications

**50.—**(1) In considering any application for development permission, the responsible authority shall, and subject to this Act or any other written law, take such of the following matters into account as it considers necessary for the satisfactory disposal of the application—

(a) any district physical development plan or local physical development plan applicable to the area;

(b) such information and advice as it has received under section 46;

(c) the foreseeable impact of the proposed development on the natural or built environment and on adjacent uses of land;

(d) the quality and economy of the proposed development, its proposed layout and the quality of its architectural designs;



(e) consideration of noise, air, water and ground pollution, and any other detrimental effect the proposed development may have on the amenity and built environment of the area and adjoining land uses;

(f) traffic considerations;

(g) the contribution the proposed development may make to economic and social facilities and welfare, including employment, within the area;

(h) the financial and other resources available to the person who has applied for development permission;

(i) whether the proposed development is desirable, convenient or necessary having regard to the public interest; and

(j) any other consideration which the Minister requires the responsible authority to have regard to.

(2) The responsible authority may in its discretion, grant an application for development permission either absolutely or subject to such conditions as it may think fit to impose or may refuse to grant an application for development permission.

(3) Without prejudice to the generality of subsection (2), the responsible authority may in respect of a grant of development permission impose such conditions as are likely to advance any of the matters referred to in subsection (1), including all or any of the following matters—

(a) the timing and phasing of a development;

(b) the contribution including financial contribution which a developer will be required to make to the provision of infrastructure and car-parking in connection with the development;

(c) landscaping and the preservation of trees and other natural resources on the land where the development is to take place;

(d) controlling the processes of development;

(e) land in the ownership or control of the developer which is contiguous to the land where the development is to take place;

(f) the duration of a development; and

(g) the nature of materials to be used in the construction of buildings and fences and the colour of external paintwork of buildings and fences.

51.—(1) A development permission shall lapse and shall cease to have any effect if the development to which it relates has not been commenced within two years of the date of the grant of that development permission.

Time and  
completion of  
development

(2) A responsible authority may by written notice served on a person who has commenced but has not within two years of the date of that commencement completed a development, for which he has obtained a grant of development permission, require that person to complete that development within the time specified in the notice.

(3) A responsible authority may on the request of an applicant for a grant of development permission, or a person who has obtained a grant of development permission, extend the time limits referred to in subsections (1) and (2).

(4) A grant of development permission may provide that the development, to which it relates, shall be permitted for a limited period only.

Revocation of  
grant of  
development  
permission

52.—(1) A responsible authority may, or on the directions of the Minister shall, by written notice served on a person who has obtained a grant of development permission, revoke in whole or in part that grant of development permission.

(2) A notice of revocation served under subsection (1) shall include—

(a) a statement of reasons for the revocation;

(b) such directions as the responsible authority shall consider necessary as to the cessation of any development that has been commenced in pursuance of the grant of development permission;

(c) information on any claim to compensation that may be made in respect of revocation; and

(d) such other matters as may be prescribed by regulations.

(3) A grant of development permission in respect of which a notice of revocation has been served on any person shall, to the extent of the revocation, cease to be valid or to have effect and any development to be affected by the revocation and which takes place after the service of the notice of revocation shall be unauthorized development.

(4) A person upon whom a notice of revocation has been served shall comply in all respects with that notice.

Development  
permission  
personal to  
applicant

53.—(1) A grant of development permission shall be personal to the person to whom it is made and where that person ceases to have an interest in the land which would entitle him without obtaining the permission of any person to enter and undertake building operations on the land, the grant of development permission shall lapse and, unless it is transferred in accordance with this section, shall cease to have effect.

(2) Where—

(a) a person has transferred or has made a contract to transfer his interest in land, which is the subject of an application for a grant of development permission or in respect of which a grant of development permission has been made; or

(b) in case of a company, where a controlling interest in the company which made the application for development permission or to which a grant of development permission has been made, or is to be or has been transferred to another person or company,

the person in whose name the application for or to whom a grant of development permission has been made shall inform the responsible authority of the name and address of the person to whom, or company to which the land or controlling interest in the company, is being or has been transferred.

(3) A transferee of land or a land controlling interest in a company referred to in subsection (2) shall, if he intends to continue with the development which is the subject of the application for a grant of development permission apply in writing to the responsible authority for a transfer of the development permission.

(4) Sections 44 to 51 of this Act shall apply to any application for a transfer of a development permission made under this section.

#### *Division II—Enforcement*

54.—(1) A person shall not commence the development of any subdivision of any land or display any advertisement on any land or building to which this Part applies unless he has first obtained a grant of development permission or except where the development, subdivision or display of advertisement is permitted development under this Act.

Development  
not to take  
place without  
permission

(2) Notwithstanding anything contained in the Registered Land Act, the Land Registrar shall refuse to accept for registration any document which effects or purports to effect a subdivision or which constitutes or purports to constitute a subdivision agreement to which subsection (1) applies, unless there is attached to such document a copy of the grant of development permission which permits such subdivision or subdivision agreement.

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(3) Notwithstanding anything contained in the Land Act, 2016, the Commissioner for Lands shall not sign, seal, execute or perfect any grant or lease of public land for the purpose of development to which this Part applies, unless the application for the grant or lease of public land is accompanied with a copy of a grant of development

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permission or a certificate from the responsible authority that such grant is not required for the development.

Enforcement  
notice

**55.**—(1) A responsible authority may, in any case where it considers that unauthorized development has taken place, by written notice a copy of which shall be served on the owner and occupier of the land or building to which the notice relates, require that person or those persons to take such action within such time, being not less than thirty days from the date of the service of a copy of the enforcement notice, in relation to that development as may be specified in that notice.

(2) An enforcement notice shall specify clearly and in a manner which may be easily understood—

- (a) the development to which it relates;
- (b) the activity on or in or the use of land or buildings alleged to constitute the unauthorized development;
- (c) the person or persons to whom it is addressed;
- (d) the time at which it comes into effect;
- (e) the action which must be taken to rectify the alleged unauthorized development and the time, being not less than sixty days, within which such action must be taken;
- (f) the powers of the responsible authority to enter the land and undertake the action specified in paragraph (e);
- (g) the penalties which may be imposed if the action specified in paragraph (e) is not undertaken; and
- (h) the right of the owner and occupier of the land or building, which is the subject of the enforcement notice, to object to or appeal against the enforcement notice.

(3) An enforcement notice shall continue to apply to development in respect of which it was served notwithstanding that it has been complied with.

(4) A person who has been served with an enforcement notice shall, subject to the provisions of this Act, be under a duty to comply with all the terms and conditions of the notice that has been served on him.

Reconsideration  
of enforcement  
notice

**56.**—(1) At any time within thirty days of the service of an enforcement notice, a person on whom such a notice has been served may by giving reasons in writing request the responsible authority to reconsider the enforcement notice.

(2) Where a written request in accordance with subsection (1) has been made to the responsible authority, the enforcement notice shall

continue to be in effect until varied, suspended or withdrawn under subsection (3) and, if varied, shall continue to be in effect in accordance with the variation.

(3) A responsible authority may, after reconsidering the case, either of its own volition or upon request made under subsection (1), confirm, vary, suspend or withdraw the enforcement notice.

(4) Where a request has been made under subsection (1), the responsible authority to whom the request is made shall, within thirty days of the receipt of the request, reconsider the enforcement notice and notify in writing the person who made the request of its decision thereon.

(5) A responsible authority may, but shall not be obliged to, give the person who has requested a reconsideration of an enforcement notice the opportunity to be heard orally by the responsible authority.

57.—(1) A responsible authority shall, in considering whether to serve or in reconsidering an enforcement notice, take such of the following matters into account as it may consider necessary to determine the question before it satisfactorily—

Matters to be taken into account on enforcement notice

(a) the nature and extent of the unauthorized development;

(b) the harm to the natural and built environment and the degree of nuisance caused to adjacent development;

(c) the length of time the unauthorized development has existed;

(d) the likely expense to the person or persons who may have been served with an enforcement notice and their capacity to meet that expense;

(e) the benefits of the unauthorized development;

(f) the possible alternative measures which could be taken to rectify or regularize the unauthorized development;

(g) whether it is necessary, desirable or convenient, having regard to the public interest to serve or confirm an enforcement notice;

(h) any other material consideration; and

(j) any consideration which the responsible authority is directed by the Minister to take into account.

(2) A responsible authority may inspect or cause to be inspected on its behalf any development to determine whether, and if so, to what extent that development is authorized and may take into account the evidence obtained from such an inspection in any decision on whether to serve or confirm an enforcement notice.

(3) A responsible authority may seek and take into account any technical, professional and scientific advice which it considers to be necessary for a satisfactory decision to be made on an enforcement notice.

Action in  
pursuance of  
enforcement  
notice

**58.**—(1) The action which a responsible authority may require to be taken by a person on whom an enforcement notice has been served to rectify the unauthorized development to which the enforcement notice relates may be the following—

(a) to pull down or remove a structure in whole or in part;

(b) to erect or re-erect a structure in whole or in part;

(c) to restore land as near as may be to the appearance and state which it had before the unauthorized development took place including the replanting of any vegetation;

(d) to display an advertisement in the place permitted by a development permission;

(e) to cease any use of land or buildings; and

(f) to do or take any action which in the opinion of the responsible authority will assist in the ending of the unauthorized development.

(2) Where a person on whom an enforcement notice has been served fails or refuses to take the action required by the enforcement notice to rectify the unauthorized development, the responsible authority may with all necessary workmen and other officers enter or authorize any other person to enter the land and take all such necessary action in respect of the unauthorized development and otherwise to enforce the notice as may seem fit.

(3) When the responsible authority has exercised the power under subsection (2) it may recover as a civil debt, in any court of competent jurisdiction, from the person or persons referred to in subsection (2) those expenses necessarily incurred by the responsible authority in the exercise of such power.

Stop notice

**59.**—(1) Where a responsible authority is of the opinion that a person is carrying out unauthorized development, the responsible authority may serve a stop notice requiring that person to cease the activity or such portion of it as may be specified in the stop notice.

(2) If a person feels aggrieved by the stop notice issued pursuant to subsection (1), he may appeal to the Council within thirty days from the date of the service of the notice.

(3) The Council may confirm, vary or rescind the stop notice

appealed from and in doing so the Council may take into account any matters provided for in section 56, in respect of enforcement notices.

60.—(1) A responsible authority may in any case where it considers that unauthorized development has taken place, by written notice served on the owner and occupier of the land or building in respect of which the unauthorized development has taken place, require that person or those persons to apply for a grant of development permission.

Development permission subsequent upon unauthorized development

(2) The provisions of sections 47 to 52 inclusive, shall apply to any application for a grant of development permission made under this section.

(3) Where a notice under subsection (1) has been served on any person, the responsible authority shall refrain from serving an enforcement notice under section 55 (1) or stop notice under section 59 (1) on that person until after not less than thirty days from the date of the service of the notice under subsection (1).

(4) A grant of development permission issued under this section may be back-dated to the time at which the development to which it relates was commenced or is considered by the responsible authority to be likely to have commenced.

(5) A responsible authority may, if it sees fit in any case of unauthorized development of a minor nature, issue a grant of development permission after requiring an application from the owner and occupier of the land on which the unauthorized development has taken place.

61.—(1) A responsible authority may, in any case where it considers that—

(a) by reason of rubbish and other materials or goods left on land or of the general appearance of the land, that land is detrimental to the environment; or

(b) a building is defectively constructed or has become dilapidated, is run down or is in need of repair so that it detracts from the built environment,

Cleaning up land and buildings and demolition of unfit buildings

by written notice served on the owner of land or building, require the owner to take such action within such time, being not less than thirty days from the date of the notice, as may be specified in the notice, to clean up and thereafter maintain in a clean state the land or building or commence to demolish the building.

(2) The action which a responsible authority may specify in the

notice made under subsection (1), may be all or any of the following, namely to—

- (a) remove rubbish and other materials from the land;
- (b) fence the land;
- (c) cut down vegetation on the land to a reasonable height;
- (d) plant shrubs and flowers and thereafter maintain them;
- (e) paint or repaint the building in specified colours;
- (f) carry out minor repairs to the building;
- (g) tidy-up the land surrounding the building;
- (h) demolish or render safe a building; and
- (i) to take such other similar action as will contribute to the cleaning of the land.

(3) Where the owner of the land or building has not, within two months or such longer time as may be specified in the notice, cleaned up the land or building or demolish or render safe a building in the manner specified in the notice, the responsible authority may, with all necessary workmen and other officers, enter or authorize others to enter, on the land and carry out the actions specified in the notice.

(4) When the responsible authority has exercised the power under subsection (3) it may recover as a civil debt, in any court of competent jurisdiction, from the owner of the land or building those expenses necessarily incurred by the responsible authority in the exercise of such power.

#### PART VI.—SPECIAL AREAS

Declaration of  
special areas

**62.—**(1) Subject to this Act, the Minister may, from time to time by order published in the *Gazette*, declare any area of land (in this Act referred to as the “special area”) to be subject to special powers of control and management of land as provided for in this Part.

(2) The following are the orders which the Minister may make—

(a) an improvement area order, for improving the physical layout, housing or other conditions of life of the inhabitants of the area;

(b) a vacant land development order, for empowering the Minister to bring about development in the public interest on vacant land;



(c) a building preservation order, for preserving individual or group of buildings which have special architectural, cultural or historical significance; and

(d) an accelerated development area order, for assisting in the planned development of an area designated for or experiencing rapid physical growth, including any rural growth area.

(3) Subject to this Act, the Minister may declare an area to be a special area in respect of any type of land within Malawi.

(4) The powers contained in any special area order for regulating, managing, controlling and bringing about the development of land within the special area shall be in addition to all other powers over land and any development thereon, contained in this Act.

63.—(1) An improvement area order may be made in respect of any area of land developed primarily for residential purposes to a high density or in an unplanned and unauthorized manner or in a manner which makes further development or redevelopment of that land or adjacent land difficult to carry out or in a manner detrimental to the environment of the area and the health of the residents of the area or adjacent areas.

(2) An improvement area order may make provision for the exercise of powers in respect of—

(a) the improvement of houses;

(b) the building or rebuilding of houses and other structures;

(c) the provision of roads, water and electricity in the area;

(d) the relocation of some or all of the residents of the area either within the area or elsewhere;

(e) the demolition of houses and other structures;

(f) the reallocation of land within the area to ensure a more beneficial occupation and a more suitable subdivision of the land;

(g) the demarcation of boundaries;

(h) the payment of compensation to residents of the area who suffer loss or inconvenience through the exercise of any of the powers of the order;

(i) the landscaping of the area; and

(j) such other matters as are in the opinion of the Minister conducive to the physical improvement of the residents of the area.

(3) Where the Minister wishes to make an improvement area order he may, prior to the making of such order, require the responsible authority over the area to which the proposed order relates to hold a meeting with the residents of that area in order to—

- (a) explain to them the purpose of the proposed order;
- (b) obtain any representations on the proposed order; and
- (c) report the substance of the meeting to the Minister.

(4) An improvement area order shall provide for the person who or authority which is to be responsible for implementing the order, and such provision may establish a special committee of persons with relevant skills and knowledge to implement the order.

(5) Where the Minister has made an improvement area order, he shall cause the substance of the order to be made known throughout the improvement area, in such manner as the Minister considers most effective, for the purpose of bringing it to the attention of the residents of the area.

(6) The person or authority responsible for the implementation of the order shall, during the period of implementation keep the residents of the area informed of, and consider their representations on, the programme of implementation and in pursuance of their duty he or it shall consult with any existing committee or residents or may appoint a committee of residents to assist them generally in the implementation of the order.

Vacant land  
development  
order

64.—(1) A vacant land development order may be made in respect of any land in any area where the Minister, after making such inquiries as he considers appropriate, is satisfied that a person entitled to the land has either through absence from the country or otherwise unreasonably failed to develop the land.

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(2) Where a vacant land development order has been made, the Minister shall have the power to lease that land in accordance with the Land Act, 2016, as if it were public land being leased.

(3) Land within a vacant land development area shall not be leased in accordance with subsection (2) until a plan for the development of that land has been prepared by the Commissioner and approved by the Minister.

(4) A person who obtains a lease of land in a vacant land development area shall develop it in accordance with the plan approved by the Minister under subsection (3).

65.—(1) Subject to the provisions of the Monuments and Relics Act, a building preservation order may be made in respect of any building or group of buildings, the preservation of which is in the opinion of the Minister desirable for architectural, landscape, cultural or historical reasons.

Building  
Preservation  
order  
Cap. 29:01

(2) A responsible authority may, and shall if so directed by the Minister, cause a survey of the buildings in its area to be made with a view to determining whether any such buildings ought to be made the subject of a building preservation order.

(3) Where a responsible authority considers that a building preservation order may be made in respect of any building, it shall forward a draft of such an order to the Minister and cause a notice of the draft order to be affixed in a conspicuous place on each building to which the draft order relates.

(4) A person shall not develop, demolish, alter or engage in any building operations other than essential repairs, or attempt so to do, in respect of any building which is subject to a building preservation order without first obtaining a grant of development permission from the responsible authority.

(5) In considering whether to grant, with or without conditions, or to refuse an application for development permission in respect of a building which is subject to a building preservation order, the responsible authority shall in addition to taking into account the matters contained in section 50 (1) have regard to the importance of preserving the architectural, cultural and historical heritage of Malawi.

(6) Any person affected by a building preservation order made by the Minister under this section shall be entitled to compensation in accordance with the Lands Acquisition Act.

Cap 58:04

66.—(1) An accelerated development area order may be made in respect of any area of land designated for the purpose of effecting rapid physical development or which in the opinion of the Minister is undergoing or is likely to undergo rapid physical development.

Accelerated  
development  
area order

(2) The Minister may, in connection with the making of an accelerated development area order—

(a) require the responsible authority to prepare a plan for the area and expedite the consideration of any applications for development permission;

(b) ensure the rapid processing of applications for plots of land within the area;

(c) ensure a coordinated approach to development within the area; and

(d) take such other action as will in his opinion facilitate the planned and orderly development of the area.

(3) An accelerated development area order may provide that, subject to such conditions as may be specified in the order, certain developments or classes of developments shall not require a grant of development permission or that developments otherwise permitted under this Act shall require development permission.

(4) When an accelerated development area order has been made, the responsible authority shall cause the substance of the order to be made known throughout the area to which it relates, in such manner as the responsible authority shall consider most effective, for the purpose of bringing it to the attention of all persons affected thereby.

#### PART VII—ACQUISITION OF LAND AND COMPENSATION

Acquisition  
of land

67.—(1) The Minister, if it is considered desirable or expedient in the interests of the implementation of any plan or of the proper control and furtherance of development of any land under this Act, may acquire any land, either compulsorily or by agreement, paying such compensation therefor as may be agreed or determined in accordance with the law.

Cap 58:04

(2) Any acquisition of land and any payment of compensation therefor under this Act shall be in accordance with the Lands Acquisition Act.

Occasions  
when  
compensation  
payable for  
planning  
actions

68.—(1) There shall be a right to the payment of compensation assessed, in accordance with the provisions of this Part in the following cases—

(a) where, by reason of a refusal of a grant of development permission by the Minister or a responsible authority, the land which was the subject of the application for a grant of development permission has become incapable of any reasonable beneficial use;

(b) where a building has been destroyed in whole or in part by fire or other natural disaster and the Minister or a responsible authority refuses to allow a building of similar content to be erected on the same or adjacent site in the ownership or occupation of the owner of the destroyed building;

(c) where the Minister or a responsible authority requires a building to be demolished, altered, removed, relocated or to cease

being built or being used or a use of land to cease, such building and use of land, being at the time authorized and in accordance with any law or in respect of which the Minister or responsible authority has approved that compensation should be paid in the interests of the implementation of a plan or the proper control of land or the exercise of powers under Part IV;

(d) where a person is required to move from his house either permanently or on a temporary basis and take up residence elsewhere in the exercise of powers under an improvement area order;

(e) where as a result of the reallocation of land to effect a more desirable subdivision thereof in an improvement area, a person has suffered a diminution in the value of his land;

(f) where a development permission has been revoked and the holder of that permission has incurred expense necessarily arising out of commencing to develop or developing in accordance with the permission; and

(g) any other case where the Minister or a responsible authority certifies that it would be just and desirable to pay compensation.

(2) For the purposes of determining whether compensation is payable, and assessing the amount of compensation which may be payable in accordance with this Part, the expression "incapable of any reasonable beneficial use" shall mean that the land cannot be used for any lawful purpose in keeping with surrounding uses so as to enable any person derive an income or produce from the land.

(3) The Minister shall calculate the compensation payable under subsection (1) in accordance with the *Second Schedule* hereto.

(4) Where a right to compensation has arisen in the circumstances referred to in subsection (1) (a) and (b), a claimant may, instead of pursuing a claim of compensation, by written notice (hereinafter called a "purchase notice") addressed to the Minister or responsible authority, require the Minister or responsible authority to purchase the land.

(5) On receipt of a purchase notice, the Minister or responsible authority may—

(a) accept the notice and agree to purchase the land in accordance with the provision of the Lands Acquisition Act as if it were a compulsory acquisition of land; Cap 58:04

(b) reject the purchase notice but agree to pay compensation assessed in accordance with this Act;

(c) reject the purchase notice and direct the granting of development permission for—

(i) the development in respect of which an application for development permission has been made; or

(ii) development as specified in the direction; or

(d) reject the purchase notice on the grounds that the land is not capable of yielding any reasonable beneficial use.

Assessment of  
compensation

69.—(1) Compensation shall be assessed by the Minister or responsible authority.

(2) In assessing compensation under this section, the Minister or responsible authority shall, unless doing so would in his opinion cause injustice, set off against—

(a) any compensation payable;

(b) any increase in the value of the land which is the subject of the claim for compensation; or

(c) any other land of the claimant adjacent to that land, brought about by or reasonably likely to have been or to be brought about by any action or decision by the Minister, a responsible authority or any person or authority exercising powers under Part VI.

(3) The Minister may refer any question of compensation arising under this Part to the Council for its advice and the Council shall give its advice in the form of a written report to the Minister.

(4) A person aggrieved by an assessment of compensation made by the Minister or a responsible authority under this section may apply to the High Court for judicial review within thirty days from the date of the assessment.

Claim for  
compensation

70.—(1) A claim for compensation under this Part shall be made in a prescribed form—

(a) to the Minister or responsible authority, as the case may be; and

(b) within six months from the date on which the action or decision which gave rise to the claim was taken.

(2) The Minister or responsible authority may, by written notice served on a claimant, require the claimant to furnish him, within such reasonable time as may be specified in the notice, with such further information relevant to the claim as may be described in the notice to enable him to determine the claim satisfactorily and expeditiously.

(3) The Minister or responsible authority shall not be obliged to

determine a claim in respect of which he has exercised the power contained in subsection (2) until he has received the information so required from the claimant.

#### PART VIII—APPEALS

71.—(1) A person—

Appeals

(a) whose application for development permission has been refused, revoked or granted subject to conditions by a responsible authority;

(b) upon whom a completion notice has been served;

(c) upon whom an enforcement notice has been served and after reconsideration has been confirmed by a responsible local government authority;

(d) aggrieved by a decision directly applicable to him taken by any person or authority exercising powers under Part VI other than any powers exercised in respect of a vacant land development order; or

(e) who has been served with a stop notice;

may appeal to the Council against that notice or decision.

(2) Where a person wishes to appeal against any notice or decision referred to in subsection (1), he shall submit a notice of appeal to the Council, within thirty days of the receipt of the notice or decision to be appealed against.

(3) The Minister may prescribe rules of procedure to be followed in the making and hearing of appeals under this Part.

72.—(1) The Council shall, in relation to the hearing of any appeal under section 71, have the powers—

Powers of  
Council on  
appeal

(a) which the responsible authority has in considering an application for a grant of development permission, whether to revoke a grant of development permission, or serve or confirm after reconsideration an enforcement notice or serve a completion notice or stop notice, and shall exercise those powers in accordance with sections 44 to 59; and

(b) to do all things which it is required or empowered to do by or under this Act.

(2) The Council may in the exercise of its powers of appeal under this Part, confirm, with or without modifications, vary, amend, alter, reverse or substitute its own decision or any decision on which an appeal has been brought before it.

(3) The decision of the Council on any appeal shall be—

- (a) made in writing;
- (b) sent to all the parties to the appeal and, where he was not a party, to the Minister; and
- (c) available for public inspection.

(4) A person aggrieved by the decision of the Council may apply to the High Court for judicial review within thirty days from the date of the decision of the Council.

#### PART IX.—PHYSICAL PLANNERS BOARD

Physical  
Planners Board

73.—(1) There is hereby established a Physical Planners Board which shall be responsible for regulating the activities and conduct of physical planners registered in accordance with the provisions of this Act.

(2) The Board shall consist of—

(a) the following members appointed by the Minister—

(i) two persons in the service of a local government authority;

(ii) two persons in private practice who are registered as physical planners; and

(iii) a member of the teaching staff at an accredited university or other institutions of higher education offering physical planning as a course; and

(c) the following *ex-officio* members—

(i) the Commissioner or his designated representative;

(ii) the Surveyor General or his designated representative; and

(iii) the Commissioner for Lands or his designated representative.

Chairperson of  
the Board

74.—(1) There shall be a chairperson of the Board who shall be elected by the Board from among the members at the first meeting of the Board convened by the Registrar within thirty days from the date of appointment of the Board and attended by all members.

(2) The election of the chairperson of the Board shall be by secret ballot and by a simple majority.

(3) A member of the Board who is a public officer shall not be eligible to be elected as chairperson of the Board.

(4) Subject to subsection (5), the chairperson shall hold office as such until the expiry of his term as member of the Board.



(5) The chairperson may be removed from office by the Board for good cause and upon the unanimous decision of the rest of the members.

75.—(1) A member of the Board shall hold office for a term of three years and at the expiry of that period may be eligible for reappointment.

Tenure of office of members of the Board

(2) The chairperson of the Board may, by notice in writing addressed to the Minister, resign his appointment.

(3) A member of the Board, other than the chairperson, may resign by giving his notice in writing to the chairperson.

76. Any person who—

Disqualification

(a) is an undischarged bankrupt;

(b) has been convicted, at any time, of an offence under this Act;

(c) has, within the preceding three years, been convicted of an offence under any written law and sentenced to a term of imprisonment; or

(d) has been convicted, within the preceding six years of an offence involving fraud or dishonesty,

shall be disqualified from appointment to, or continuing to hold office as a member of the Board.

77.—(1) The office of a member of the Board, not being an *ex-officio* member, shall become vacant where—

Vacancies

(a) the member dies;

(b) the member resigns; or

(c) in accordance with section 76, he becomes disqualified from continuing to hold the office.

(2) A vacancy in the Board shall be filled by a person appointed in accordance with section 73.

(3) The Minister shall cause a notice of every appointment to the Board to be published in the *Gazette* and shall, in such notice, publish resultant membership of the Board.

78.—(1) The Board shall meet at least four times every year in ordinary meeting but the chairperson shall, upon a request in writing by at least three members of the Board, at any time convene an extraordinary meeting of the Board.

Proceedings of the Board

(2) The chairperson shall preside over meetings of the Board, but in the absence of the chairperson, the members present and forming

a quorum shall elect one of their number to perform the functions of the chairperson at that meeting.

(3) The Registrar or any officer of the Board as the Registrar may designate in that behalf shall take and keep all minutes of proceedings of every meeting of the Board or any committee of the Board and such minutes shall be subject to confirmation by the Board or Committee, as the case may be, at the succeeding meeting.

(4) Decisions of the Board on any matter shall be in accordance with the vote of the majority of members present and voting thereon, but in the event of an equality of votes, the chairperson or the presiding member at the meeting concerned, shall have a casting vote in addition to his deliberative vote.

(5) The Board shall have power to regulate its own procedures.

Committees  
of the Board

79.—(1) The Board may establish such number of its own committees as it considers necessary for the performance of its functions and exercise of its powers and may assign to such committees any of its functions without prejudice to the power of the Board itself to perform the functions.

(2) Every committee of the Board shall be presided over by a member of the Board and may include persons who are not members of the Board but shall not include members of staff of the Board.

(3) The Board or the chairperson may, at any time, direct a chairperson of any committee to convene a meeting of such committee and such a chairperson shall, as soon as is practicable, comply, with such direction.

(4) Every committee shall keep minutes of its meetings and shall inform the Board of its activities and conduct its proceedings in such manner as the Board may direct.

(5) A member of a committee shall, in respect of expenses incurred by him in travelling and subsistence while discharging his duties as such member, be paid out of the funds of the Board, such allowances as may be prescribed.

(6) Subject to any general or special directions of the Board, every committee of the Board shall have power to determine its own procedure.

Invited persons

80.—(1) The Board or any of its committees may, invite any person to attend any meeting of the Board or committee, as the case may be, for the purpose of assisting or advising the Board or the committee in respect of any matter under consideration by the Board or committee.

(2) Any person invited under subsection (1) may take part in the deliberations of the Board or committee at any meeting but shall not be entitled to vote on any matter at that meeting.

**81.—(1)** The Board shall be the sole authority for registering and regulating physical planners in Malawi and shall have the following powers and duties—

Powers and  
duties of  
the Board

(a) to approve minimum qualifications and training acceptable for registration as a physical planner;

(b) to approve educational and training institutions within and outside Malawi for purposes of recognized training in physical planning;

(c) to set up and conduct such tests, examinations as may be required for the purposes of registration;

(d) to register and grant certificates of registration to physical planners;

(e) to keep and maintain a register of all registered physical planners;

(f) to advise the Minister on policies relating to technical and professional matters within the scope of this Act;

(g) to advise the Minister as to the professional fees and other charges to be prescribed under section 99;

(h) to determine the fees payable in respect of the licensing and registration of a physical planner and the annual fee payable for the renewal of any such licence;

(i) to determine other methods, apart from examinations, to be used in assessing suitability of an applicant for registration;

(j) from time to time, to appoint such examiners and invigilators as may be necessary for the purposes of administering any examinations under section 84;

(k) from time to time, to prescribe principles of conduct and ethics to be followed by physical planners in the course of their practice ;

(l) to exercise disciplinary control over physical planners and to prescribe and impose disciplinary measures against such physical planners; and

(m) to exercise, any other powers and perform any other functions pursuant to the objectives of this Act.

(2) The Board shall publish in the *Gazette*, once every year, lists of physical planners registered under this Act.

Secretariat of  
the Board

**82.**—(1) There shall be a Secretariat of the Board which shall consist of a Registrar and such other staff of the Board subordinate to the Registrar.

(2) The Board shall appoint, on such terms as it may determine, the Registrar who shall be the Chief Executive Officer of the Board, and shall in addition perform such duties as the Board may assign to his office.

(3) The Board may appoint, on such terms and conditions as it may determine, such other staff of the Board, as it considers necessary for the performance of its functions and to assist the Registrar in discharging his duties.

Duties of the  
Registrar

**83.** Subject to the general and special directions of the Board, the Registrar shall—

(a) be responsible to the Board for the day to day management and supervision of the Secretariat;

(b) keep and maintain a register of all registered physical planners; and

(c) cause to be published in the *Gazette* at the beginning of each year a notice of the names, addresses and qualifications of all registered physical planners.

Application for  
registration

**84.**—(1) A person shall qualify to make an application for registration as a physical planner under this Act if—

(a) he is the holder of a bachelor's degree in physical planning from a university which is recognized by the Board and has passed any examination prescribed by the Board; and

(b) he has been admitted as a corporate member of an approved professional institution whose qualification for such admission are not less than those in paragraph (a).

(2) A person shall be eligible to take any examinations prescribed by the Board, if he has had two years post qualification practical experience in physical planning.

Registration  
as a physical  
planner

**85.**—(1) Where the Board is satisfied of the suitability of an application under section 84, it shall direct the Registrar to enter the name of the applicant in the register.

(2) The Registrar shall issue to every person registered as a physical planner under this Act, a certificate of registration in the form as may be prescribed.

Registration in  
exceptional  
circumstances

**86.**—(1) Where a person satisfies the Board that—

(a) he is qualified under section 84;

(b) he is not ordinarily resident in Malawi; and

(c) he intends to reside in Malawi and engage in practice as a physical planner for the specific work which he has been engaged,

the Board may direct the Registrar to register that person for a period not exceeding one year or for a period of the duration of the specific work which he has been engaged to do.

(2) An application for registration under this section shall be—

(a) made in the prescribed form;

(b) accompanied by a prescribed fee; and

(c) accompanied by documentary evidence of the applicants work or employment, immediately prior to his coming to Malawi.

(3) The Board, may require an applicant under this section to appear before it for the purposes of considering his application.

87.—(1) The Board may discipline a registered physical planner where—

(a) he is convicted of an offence involving dishonesty or moral turpitude;

(b) after due inquiry by the Board, he is found guilty of an act or omission amounting to professional misconduct; or

(c) he is involved in activities prejudicial to the public interest.

(2) Pursuant to subsection (1), the Board may—

(a) caution or censure the registered physical planner;

(b) direct that the registration of the registered physical planner be suspended for such period as the Board may specify;

(c) direct that the name of the registered physical planner be removed from the register; or

(d) impose on the registered physical planner a penalty not exceeding one hundred thousand Kwacha (K100,000.00).

88. The Board may direct the removal of a name of a physical planner from the register where such physical planner—

(a) dies;

(b) fails, within a period of six months from the date of an inquiry sent by the Registrar by prepaid registered letter to the address appearing in the register against his name, to notify the Registrar of his current address;

(c) requests that his name be removed from the register;

Power of the Board to deal with offences by registered physical planners

Removal of name from register

(d) is entered in the register by mistake or by reason of any false or misleading information;

(e) has his qualification withdrawn or cancelled by the body through which it was acquired or by which it was awarded;

(f) is adjudged bankrupt;

(g) is found guilty of an act or omission prejudicial to the public interest or misconduct under this Act by the Board; or

(h) is convicted of an offence under this Act.

(2) The Registrar shall inform any registered physical planner whose name has been removed from the register of his removal in writing.

(3) The Registrar shall cause to be published in the *Gazette* as soon as practicable, the name, address and qualifications of any person whose name is removed from the register under this section.

Restoration  
of name  
in register

89. Where the name of a physical planner is removed from the register or his registration is suspended, the Board may, of its own motion or on the application of any person in the prescribed form and after holding such inquiry as it may consider necessary, direct that—

(a) the name of that physical planner be restored in the register; or

(b) the suspension of the registration of that physical planner be terminated.

Corrections of  
register

90. The Registrar may, with the prior approval of the Board, make alteration or correction in any register in relation to any entry.

Appeals against  
decisions of  
the Board

91. A person aggrieved by a decision of the Board to—

(a) register his name;

(b) remove his name from the register;

(c) suspend his registration; or

(d) restore his name on the register,

may apply to the High Court for judicial review, within twenty one days after receiving the written decision of the Board.

Effect of  
Registration

92.—(1) Any person whose name has been entered in the register shall be entitled to adopt and use the title "Registered Physical Planner" or such contraction as the Board may approve.

(2) Any person who adopts or uses the title "Registered Physical Planner" in contravention of subsection (1) commits an offence and shall, upon conviction, be liable to a fine of five hundred thousand

Kwacha (K500,000) and to imprisonment for one year.

93.—(1) A person shall not practice as a physical planner unless he is registered under this Act.

Non-registered persons not to practice as physical planners

(2) A person who contravenes this section commits an offence and shall, upon conviction, be liable to a fine of K500,000 and to imprisonment for one year.

94. The funds of the Board shall consist of—

Funds of the Board

(a) registration fees, subscription fees, examination fees and administrative penalties; and

(b) such moneys or other property as may be payable to or vest in the Board pursuant to this or any other written law or pursuant to any trust or gift.

#### PART X—MISCELLANEOUS

95.—(1) For the purpose of this Act, the Commissioner or an authorized officer may, at all reasonable times, enter any land or building to—

Powers of entry

(a) inspect or survey the land or building for the purpose of preparing a plan;

(b) determine whether any unauthorized development is being or has been undertaken on the land or in the building;

(c) determine whether an order under Part VI shall be made in respect of the land or to enter such land in exercise of the powers under any order so made;

(d) assess compensation under Part VIII; and

(e) obtain information relevant to the determination of an application for development permission.

(2)—(a) in the case of subsection (1) in respect only of entry to a dwelling house or any enclosed court or garden attached to a dwelling house, the Commissioner or an authorized officer shall give less than seven days notice of his intention to enter; and

(b) in the case of paragraph (b) of subsection (1), if the entry is to land or building other than a dwelling house or any enclosed court or garden attached to a dwelling house, it shall be sufficient if the Commissioner or an authorized officer gives not less than twenty-four hours notice of his intention to enter.

(3) Where the Commissioner or an authorized officer has entered upon any land or building under this section, he may make such examination and inquiries as necessary to effect the purposes of the

entry.

(4) Before exercising any powers under this section, the Commissioner or an authorized officer shall identify himself to the person who is or appears to be in control of the land or building which is about to be or has been entered.

Registration  
of applications  
for  
development  
permission and  
enforcement  
notices

96.—(1) A responsible authority shall maintain a register in the prescribed form of all applications for development permission and all enforcement notices, made or served in the area of jurisdiction for which it is responsible.

(2) A register under this section shall be open to the public at all reasonable times at the offices of the responsible authority.

(3) A member of the public may, with the permission of the responsible authority and on payment of the prescribed fee, make a copy of any entry in the register.

Publication of  
information by  
the  
Commissioner

97.—(1) The Commissioner may, with the approval of the Minister, publish such periodicals and reports as will, in his opinion assist the citizens of Malawi and other persons to understand and comply with the purpose and practices of physical planning.

(2) The approval of the Minister under this section may be given in general terms in respect of any particular publication or class of publications which the Commissioner wishes to publish.

(3) Any publication to which this section applies, may be made available to the public without charge.

Offences

98. Any person who, without lawful or reasonable excuse—

(a) fails to carry out any work or action required by an enforcement notice which has been served on him;

(b) obstructs or impedes any authorized officer or any member of the Board or any member of a planning committee, lawfully exercising a power of entry onto land or building, from entering any land or any building;

(c) fails to comply with any order, direction, notice or instruction lawfully given to him by an authorized officer exercising any powers conferred by this Act;

(d) fails to give information on any matter in respect of which he has been lawfully required so to do;

(e) tears down, defaces or otherwise marks or interferes with any notice lawfully affixed to any building or placed upon a board specially erected for that purpose in connection with the administration of this Act;



(f) fails to comply with a condition subject to which a grant of development permission was made;

(g) subdivides, or enters into any subdivision agreement with respect to any land or a portion thereof within any area in which such subdivision or subdivision agreement is prohibited;

(h) commences any development without a grant of development permission where such permission is required;

(i) displays an advertisement without a grant of development permission where such permission is required;

(j) ignores a stop notice;

(k) fraudulently makes, or causes or permits to be made any false or incorrect entry in the register of physical planners or any copy thereof;

(l) fraudulently procures or attempts to procure the entry in the register of physical planners of any name or other particulars whether on his own behalf or on behalf of any other person; or

(m) knowingly and wilfully makes any statement, which is false in any material particular or which is misleading with a view to gaining any advantage or privilege under this Act whether for himself or for any other person,

commits an offence and upon conviction shall be liable—

(a) in the case of a natural person, to a fine of K500,000.00 and to imprisonment for a term of one year and in the case of a continuing offence, a further fine of two thousand Kwacha (K2,000.00) for each day during which the offence continues after conviction; and

(b) in the case of a legal person, to a fine of K2,000,000.00.

99.—(1) The Minister may make regulations for the better carrying out or giving effect to the provisions of this Act, and, without prejudice to the generality of the foregoing, the regulations may prescribe— Regulations

(a) the form of plans;

(b) the form of applications for a grant of development permission;

(c) the form of enforcement notices;

(d) the forms to be used in connection with claim for compensation;

(e) the procedures to be followed by a planning committee;

(f) the forms of register of applications for development permission and of enforcement notices;

(g) fees payable under this Act;

(h) the remuneration of members of the Council, Board and planning committees;

(i) procedures to be followed by applicant when applying for registration as physical planners under this Act;

(j) the fees to be charged and the forms to be used for the purposes of this Act;

(k) conduct of, or activities by physical planners considered to be prejudicial to the public interest;

(l) the type of materials to be used in the construction of buildings and fences;

(m) the forms of notice of revocation;

(n) the forms of purchase notices; and

(o) any other matter which may be prescribed.

(2) The Minister may, with the concurrence of the Minister for the time being responsible for Local Government, make regulations providing for the exercise by local government authorities of any functions and duties conferred upon them by this Act.

Cap. 1:01

(3) Notwithstanding section 21(e) of the General Interpretation Act, the regulations made pursuant to this section may create offences in respect of any contravention to the regulations, and may for any such contravention, prescribe penalties up to K2,000,000.00 and to imprisonment for a period of up to one year.

100.—(1) The Town and Country Planning Act is repealed.

Repeal and  
savings  
Cap. 23:01

(2) Any subsidiary legislation made under the Act repealed by subsection (1), in force immediately before the commencement of this Act—

(a) shall remain in force unless in conflict with this Act, and be deemed to be subsidiary legislation made under this Act; and

(b) may be replaced, amended, or repealed by subsidiary legislation made under this Act.

(3) Anything done in accordance with the Act repealed under subsection (1) prior to the commencement of this Act, including enforcement notices, orders and development permissions and which may be done in accordance with the provisions of this Act, shall be deemed to have been done in accordance with this Act.

(4) At the commencement of this Act, a responsible authority shall notify any developer who shall be found not to be in compliance with the provisions of this Act, to comply with the Act within a period that the responsible authority may specify.

## FIRST SCHEDULE

(s.44)

## PERMITTED DEVELOPMENT

The following developments shall, subject to such conditions as may be imposed by a responsible authority be permitted developments within any land and a land development control area namely—

- (a) the building by the lessee or licensee of or under which the plot is held and any rules regulating building operations within a traditional housing area and subject to the provisions of section 36 of this Act;
- (b) minor repairs which do not result in any extension of the external dimensions of a building and which do not materially affect either the use of the building or its external appearance;
- (c) any changes of use of land within the same class of uses;
- (d) the display of an advertisement on a building or on site which—
  - (i) merely discloses the name of any business or undertaking carried on in such building or on such site or the name of the proprietor or manager of such business or undertaking; or
  - (ii) relates solely to any business or undertaking carried on or to the goods sold or the services provided in such building or on such site the space which may be occupied by all such advertisements on any external face of any such building shall not exceed thirty square centimetres for each centimetre length of the building frontage of that face and provided that the area occupied by any such advertisement, however affixed to a building, shall be computed as if the advertisement as a whole were displayed flat against the face of the building.
- (e) the display of an advertisement which relates solely to—
  - (i) a form of recreation which is or will be available upon the land;
  - (ii) an agricultural show, entertainment, meeting or sale which is being or is to be held upon the land; or
  - (iii) the sale or lease of the land, or the sale or hire of livestock or implements or produce of the land, upon which the advertisement is displayed, but the advertisement shall only

be displayed at any entrance to such land and that no more than one advertisement shall be displayed in respect of any one of such matters at any one entrance;

- (f) the display of an advertisement which merely indicates—
- (i) that a particular road or path is a private road or path or leads to a particular place; or
  - (ii) that a particular act is prohibited or permitted;
- (g) the display of advertisements upon any railway station, yard, platform or station approach belonging to a railway company;
- Cap.69:01 (h) the display of any road traffic sign as defined in section 2 of the Road Traffic Act or any notice or warning lawfully erected in accordance with the Railways Act; and
- (i) the display of an advertisement of a class prescribed by the Minister if such advertisement conforms to specifications prescribed by him and is displayed in accordance with conditions prescribed by him.

## SECOND SCHEDULE

(s. 68(3))

### CALCULATION OF COMPENSATION

Compensation payable in respect of cases referred to in section 68 (1) (a) to (g) shall be calculated as follows—

- (a) paragraph (a): the difference between the value of land immediately prior to the application for the grant of development permission, ignoring the possibility of obtaining a grant of development permission, and the value of the land after the refusal of development permission;
- (b) paragraph (b): the difference between the value of the land with the building on it in its existing state and use immediately before the fire or other natural disaster whereby it was destroyed and the value of land as a cleared site in respect of which the Minister has issued a certificate stating what, if any, development would be permitted on the site;
- (c) paragraph (c): the value of the building immediately before it was demolished, altered, removed, relocated or ceased to be used and the value of the land immediately before it ceased to be used together with the costs of relocation of the building and the activities that took place in the building or the land;
- (d) paragraph (d): the cost of moving and relocation elsewhere together with a reasonable sum to compensate for the loss of a home;

- (e) paragraph (e): the difference between the value of the land immediately before the reallocation of land and re-subdivision of plots and the value of the land after the reallocation of land and re-subdivision of plots taking into account the benefits accruing to the whole area which has been subject to such a process of reallocation and re-subdivision;
- (f) paragraph (f): the expense necessary incurred in commencing to develop or in developing land in respect of which a development permission has been revoked; and
- (g) paragraph (g): such amount of compensation as the Minister or local government authority shall consider just to provide.

Passed in Parliament this twelfth day of July, two thousand and sixteen.

FIONA KALEMBA  
*Clerk of Parliament*