



## TURKS AND CAICOS ISLANDS

# CHAPTER 73 PHYSICAL PLANNING ORDINANCE and Subsidiary Legislation

**Revised Edition**  
showing the law as at 15 May 1998

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Ordinance 1997.

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**CHAPTER 73**

**PHYSICAL PLANNING ORDINANCE**

*(Ordinance 10 of 1989)*

AN ORDINANCE TO MAKE NEW PROVISION FOR THE PLANNING  
AND REGULATION OF THE DEVELOPMENT AND USE OF LAND, AND  
FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

*[12 January 1990]* Commencement

PART I

PRELIMINARY

1. This Ordinance may be cited as the Physical Planning Ordinance. Short title

2. (1) In this Ordinance, unless the context otherwise requires— Interpretation

“advertisement” means any word, letter model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of advertisement, announcement or direction, and (without prejudice to the preceding provisions of this definition) includes any hoarding or similar structure used, or adapted for use, for the display of advertisements, and references to the display of advertisements shall be construed accordingly;

“amenity order” means an order made under section 58;

“Board” means the Physical Planning Board referred to in section 4;

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

“building inspectors” means persons appointed as building inspectors under the provisions of section 68;

“building regulations” means regulations made under section 67; and a reference to building regulations, in a particular case in relation to which a requirement of building regulations is for the time being dispensed with, waived, relaxed or

modified, is a reference to building regulations as they apply in that case unless the context otherwise requires;

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

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

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

“building preservation order” means an order made under section 54 or an interim building preservation order made under section 55;

“Chief Engineer” means the person appointed as such in the public service;

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

“commercial development” means any development which is not for private residential or agricultural purposes, and includes the use of land by a developer for the building on one parcel of more than one residence for sale or lease to individuals for private residential purposes;

“conservation area” means any area declared to be a conservation area under section 61;

“Crown land” means land of which the Crown is the owner or is registered as the lessee under the Registered Land Ordinance, or which is otherwise vested in the Crown;

“development” means the carrying out of building, engineering, mining or other operations in, on, over or under any land, the making of any material change in the use of any building or land or the subdivision of any land:



Provided that the following shall not be deemed to constitute development—

- (a) work for the maintenance or other alteration of any building, if the work affects only the interior thereof and does not materially affect the external appearance of the building;
- (b) work carried out by the Government for the maintenance or improvement of a road;
- (c) work carried out with the approval of the Chief Engineer, or authorized under the Electricity Ordinance, for the purpose of inspecting, repairing or renewing any sewers, electric mains, cables or other apparatus, including the excavation of any road or other land for the purpose;
- (d) the use of any building or other land within the curtilage of a dwelling-house for purposes incidental to the enjoyment of that dwelling house as such;
- (e) the use of land for any agricultural or arboricultural activity, but not including any building or engineering activity thereon or the operation of a saw mill;
- (f) the erection of gates, fences, walls or other means of enclosure, not being adjacent to highway or the sea, not exceeding three feet six inches in height and not constructed of asbestos, plastic, fibre glass or sheet metal;
- (g) the enlargement, improvement or other alteration of a dwelling house:

*Cap. 114*

Provided that—

- (i) the square footage of the enlargement does not exceed one tenth of the square footage of the ground floor of the house at the date of the development or of the house at the commencement of this Ordinance, whichever is the larger;
- (ii) the enlargement is single storey;
- (iii) the enlargement is an integral part of the existing house;
- (iv) the enlargement complies with the requirements of any planning and building regulations for the time being in force; and

(v) written notice of intention to carry out such work is given to the Board through the Director;

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

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

“Director” means the Director of Planning appointed under section 11;

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

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

“industrial development” means the development of land for the manufacture or partial manufacture of goods, articles or substances of any kind, the repair of goods or articles or the assembly of manufactured goods or the turning into manufactured goods of articles which are partially manufactured or of substances in their natural condition;

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“land” has the meaning given to that expression in the Registered Land Ordinance;

“low cost housing” means housing in areas designated by the Board for the purpose of constructing accommodation to a lesser standard than required elsewhere;

“Minister” means the Minister to whom has been assigned responsibility for development, planning and related matters;

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

“mining operation” means—

- (a) to carry out in relation to any mineral, any activity with a view to working, carrying away, treating or converting that mineral;
- (b) to search or explore for any mineral with a view to carrying out any activity mentioned in paragraph

(a) of this definition and to carry out any work necessary for such search or exploration;

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

“parcel” means an area of land which is separately delineated and given a number on the Registry Map maintained under section 14 of the Registered Land Ordinance;

“permitted development” means development which is authorized under sub-section (2) of section 28;

“plant” in relation to vegetation includes any flower, shrub, tree and any lichen, moss or other vegetation in such proximity to any plant that the continued existence of such lichen, moss or other vegetation promotes or assists in securing the growth or survival of any plant;

“plant preservation order” means a plant preservation order or an interim plant preservation order made under section 56;

“regulations” means regulations made under any provision of this Ordinance, other than building regulations;

“repealed Ordinance” means the Planning and Development Ordinance repealed by this Ordinance;

“Secretary” means the person appointed as Secretary to the Board, under section 6;

“subdivide”, in relation to land, means to divide a parcel of land into two or more parcels;

“unauthorized development” means any development for which a grant of development permission has not been obtained and which is not permitted development authorized under sub-section (2) of section 28; and

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

(2) The use for the display of an advertisement on any land or the external part of a building, which is not ordinarily used for that purpose, shall be deemed to involve a material change in the use of that land or part of the building.

- (3) For the avoidance of doubt it is hereby declared that—
- (a) the use as two or more separate dwelling houses of any building previously used as one dwelling-house involves a material change in the use of that building and of each part thereof so used;
  - (b) the deposit of any waste material on land involves a material change in the use of the land, notwithstanding that the deposit is on a site which has been previously so used, if either the superficial area thereof or the height of the deposit is thereby extended or exceeds the level of similar deposit on adjoining land.

## PART II

### THE MINISTER

Duties of the  
Minister

3. (1) It shall be the duty of the Minister to secure consistency and continuity in the framing and execution of a comprehensive policy with respect to the use and development of all land in these Islands to which this Ordinance applies in accordance with a development plan for these Islands prepared in accordance with the provisions of Part IV or otherwise in operation by reason thereof.

(2) All acts of the Minister may be signified under the hand of the Director or such other officer as the Minister may authorize.

### *Physical Planning Board*

The Board

4. (1) The Physical Planning Board is hereby established.

(2) The Governor shall appoint not less than seven persons, including a Chairman and a Vice Chairman, as members of the Board by notice in the *Gazette*, who shall hold office for such term, not exceeding two years, as may be specified at the date of appointment.

(3) If at any time there are less than seven members of the Board the Governor shall, as soon as may be by notice in the *Gazette* appoint such additional members as may be necessary to bring the number up to seven members:

Provided that the validity of any thing done by the Board shall not be affected by any vacancy in the membership of the Board unless the number of members is less than five.

(4) Any member of the Board may be reappointed as a member upon the expiration of the term of his appointment.

(5) Any member of the Board may resign his office upon giving written notice to the Governor. The Governor may revoke the appointment of any member of the Board upon giving written notice to that member.

(6) Section 32 of the Interpretation Ordinance shall apply and the Chairman shall have an original and casting vote on any matter or question before the Board.

*Cap. 3*

(7) The Board shall be deemed to be a public board for the purposes of sections 34 and 35 of the Interpretation Ordinance.

**5.** (1) A meeting of the Board shall be convened by the Chairman, or in his absence from the Islands or his inability for any reason to act, by the Vice-Chairman:

Meetings of the  
Board

Provided that the Chairman (or Vice-Chairman as the case may be) shall convene a meeting at any time upon being requested in writing so to do by not less than four members:

Provided further that the Governor may direct the Secretary that a meeting shall be convened and the Secretary, within fourteen days of such direction, shall convene a meeting accordingly.

(2) Five members shall constitute a quorum of the Board.

(3) If at any meeting both the Chairman and the Vice-Chairman are absent for any reason, the members present shall elect one of their number to preside at the meeting.

(4) The Director shall be entitled to attend at any meeting and to advise the members on the performance of any of their functions under this Ordinance, but shall not be entitled to vote on any matter before the meeting.

**6.** (1) The Governor shall appoint a person to be the Secretary to the Board.

Secretary to the  
Board

(2) The Secretary, or in his absence any planning officer instructed for the purpose by the Director, shall attend all meetings of the Board, but may not vote on any matter or question before the Board, and shall be responsible for preparing and maintaining all records and minutes of the proceedings of the Board and of applications made to the Board.

(3) The Secretary shall perform such duties as are or may be conferred upon him by this Ordinance and such other duties as may be required by the Director.

Times and places  
of meetings of  
the Board

**7.** The Board shall meet at such times and places as it shall nominate and the Minister shall approve.

For the avoidance of doubt, such meetings may be held at convenient locations in any Island in the Turks and Caicos Islands.

Regulations

**8.** (1) The Governor may make regulations—

- (a) for the purpose of specifying the powers and duties of the Board;
- (b) for the purpose of facilitating the work of the Board; and
- (c) generally for the purpose of carrying the provisions of this Ordinance into effect.

(2) The power of the Board to regulate its own procedure by standing orders under the provisions of section 34 of the Interpretation Ordinance shall not be affected, unless such standing orders are contrary to regulations made under subsection (1) hereof when the regulations shall prevail.

Members not to  
participate in  
certain  
discussions

**9.** (1) Any member of the Board who has any personal interest in any matter which comes before the Board for discussion at any meeting of the Board during any times when he is present at that meeting, shall forthwith declare that interest and shall withdraw from the meeting and remain absent whilst that matter is under discussion.

(2) The Secretary shall maintain a book or register in such form as is approved by the Governor acting in his discretion in which he shall record particulars of any declaration of interest made pursuant to subsection (1) and that register shall be open to inspection by the public.

(3) Any member of the Board who—

- (a) knowingly fails to declare any interest he is obliged by subsection (1) to declare; or
- (b) having declared such an interest in accordance with subsection (1) fails to withdraw from the meeting; or
- (c) having withdrawn from the meeting in accordance with subsection (1), returns to that meeting during a time he is required by subsection (1) to absent himself therefrom,

commits an offence and shall be liable on conviction to a fine of \$10,000 and to imprisonment for two years.

**10.** (1) For the purposes of section 9 a person has a personal interest in a matter which comes before the Board for discussion if he or any relative of his has, to his knowledge, a relevant interest in land.

Meaning of  
“personal  
interest”

(2) In this section—

- (a) “relative” means the spouse, brother, sister, father, mother or children of the person concerned, or of any of the said persons; and for the purpose of this section a relationship shall be established as if any illegitimate child, stepchild, or adopted child of such person had been a child born to him in wedlock;
- (b) any company in which any relative of the person concerned holds or controls ten per cent or more of the shares carrying voting rights at general meetings or in which persons who are his relatives in combination hold or control ten per cent or more of the shares carrying voting rights at general meetings or in which he and any relative hold or control ten per cent or more of the shares carrying voting rights at general meetings is deemed to be a relative of the person concerned;
- (c) a person for whom the person concerned acts as a nominee, trustee or attorney in fact is deemed to be a relative of that person.

(3) For the purposes of subsection (1), a person has a relevant interest in land if—

- (a) he or any relative of his owns the freehold or any lease or any charge by way of security of any land or any option to acquire any of the foregoing interests over or in respect of any land—
  - (i) which is the subject of any application or the subject of any discussion to which section 9(1) relates;
  - (ii) which adjoins any part of any land to which sub-paragraph (i) of this paragraph relates; or
- (b) he or any partner of his or any company of which he is a director or employee has within the past twelve months furnished any advice for or in expectation of gain in any connection with the use,

enjoyment or development of any land to which paragraph (a) relates; or

- (c) he or any partner of his or any company of which he is a director or employee has within the past twelve months been, in respect of any land to which paragraph (a) relates, the nominee of the owner or the trustee of the owner.

(4) Notwithstanding subsection (2) a person and any relative of his shall be deemed not to have a relevant interest in land if—

- (a) he would have that interest by subsection (2) only by reason of his being a trustee or nominee of a church or charity or in the course of his duties as a member of the Board; or
- (b) he has furnished advice only in the performance of his duties as a public officer.

### *Planning Staff*

Director of  
Planning

**11.** (1) The Governor shall appoint a person to be the Director of Planning, and may appoint a Deputy Director to exercise and perform the powers and duties specified in subsection (5).

(2) Subject to the provisions of this Ordinance, the Director shall be responsible to the Minister for the administration and operation of the system of planning for which this Ordinance provides.

(3) The Director shall sign and issue all development permissions, refusals of development permission, enforcement of notices and other documents authorized by the Board to be issued under the provisions of this Ordinance.

(4) The Director shall have such powers as are conferred upon him by this Ordinance and such duties as he is required by this Ordinance or by the direction of the Minister to perform.

(5) In the absence of the Director from the Islands, the powers and duties of the Director under this Ordinance shall be exercised and performed by such other public officer as the Governor, acting in his discretion, may direct.

Exercise of  
functions of the  
Director

**12.** (1) Any functions assigned to the Director by or under the provisions of this Ordinance, other than those mentioned in subsection (3) of section 11, may be exercised by any planning officer authorized, either generally or specially, in that behalf by the Director.



(2) Any person exercising any function assigned to a planning officer by or under the provisions of this Ordinance shall be deemed, for the purpose of the exercise of such function, to be the proper officer for the exercise of such function, if authorized for the purpose by the Director, and shall be deemed to have the powers of a planning officer for the purpose of that function.

**13.** No civil proceedings in any court shall lie against the Governor, the Minister, any member of the Board, the Director or any other public officer in their respective private capacities for or in respect of any act or matter done or omitted to be done, in good faith, in the exercise or purported exercise of any function under or power conferred by this Ordinance.

Protection of  
persons acting  
*bona fide* under  
this Ordinance

### PART III

#### PLANNING POLICY AND EXERCISE OF PLANNING FUNCTIONS

**14.** (1) It shall be the duty of the Governor, the Minister, the Board, the Director and all planning officers charged by or under this Ordinance with the exercise of any power or the performance of any duty to exercise that power or to perform that duty in such manner as will promote development of land which—

General duty

- (a) is consistent with a coherent policy for the development of land in the Islands (including any development plan having effect in accordance with the provisions of this Ordinance);
- (b) promotes orderly development of the Islands in such manner as is beneficial to the people of the Islands; and
- (c) takes into account environmental, social and economic considerations.

(2) The Board shall furnish the Minister with such returns and other information with respect to the exercise by them of their functions as he may from time to time require.

(3) The Minister shall not later than the thirty-first day of March in each year submit to the Governor, and the Board shall submit to the Governor, through the Minister, a report in writing relating to the year expired on the preceding thirty-first day of

December containing the following information, and such other information as the Governor may direct—

- (a) the number and type of applications for development permission received;
- (b) the number and type of applications for development permission granted;
- (c) the number and type of applications for development permission refused;
- (d) the number and type of applications for development permission granted on appeal under this Ordinance;
- (e) the aggregate fees paid under this Ordinance;
- (f) the number and the venue of meetings of the Board held during the year;
- (g) any difficulties the Minister or the Board has encountered in meeting the objectives set out in paragraphs (a), (b) and (c) of subsection (1); and
- (h) any recommendations the Minister or the Board wishes to make as to the amendment of this Ordinance or the regulations then in force or the making of new legislation to assist in the fulfilling of those objectives;
- (i) as regards the Minister's report—
  - (i) the number and type of applications for a Minister's certificate of approval received;
  - (ii) the number and type of applications for a Minister's certificate of approval granted;
  - (iii) the number and type of applications for a Minister's certificate of approval granted on appeal under this Ordinance;
  - (iv) a brief resume of any applications for a Minister's certificate of approval which the Minister considers should be included in the report, or which have been specifically requested by the Governor.

(4) The Governor may instruct the Director to publish in the *Gazette* such information contained in the reports as he deems appropriate, and the Director shall effect the publication thereof.

(5) No court shall inquire into whether the Governor, the Minister, the Board, the Director or any planning officer in

exercising any function under this Ordinance has taken the objectives set out in subsection (1) into account.

**15.** The Director and any planning officer authorized by him may discuss with any person interested in developing any land or any proposed development of any land, but nothing the Director may say in any discussion contemplated by this section, or any diagram, schematic drawing or other material he may provide or consider as a result of, or during any such discussion shall bind the Governor, the Minister, the Board or the Director as to the manner in which any power under this Ordinance may be exercised or to exercise any such power as the case may be or require him to perform any duty which they or he would not otherwise be obliged to perform.

Assistance by the  
Director

*Governor's and Minister's Directions*

**16.** (1) The Governor acting in his discretion or the Minister may give directions in writing to the Board as to the general policy to be pursued as to the grant of development permission.

Policy directions  
to the Board

(2) No court shall inquire as to whether or not in any particular case the Board has complied with any direction given under subsection (1).

**17.** (1) No suit or proceedings whatsoever may be brought by any person against the Government, the Governor, the Minister, the Board, or any other public officer on the ground or partly on the ground that development permission has been granted for the development of any land in any manner.

Certain causes of  
action barred

(2) It is declared that in exercising their respective functions under this Ordinance, no action in negligence shall lie against the Government, the Governor, the Minister, the Board, or any other public officer by any owner or occupier present or future of any land, building or structure so as to render them or any of them liable for any loss or damage whatsoever, occasioned or partly occasioned by the exercise of that function or the manner in which that function was exercised but nothing in this subsection shall operate so as to relieve any of the before-mentioned authorities or persons from any liability arising otherwise than in negligence.

*Advisory Role of Director*

**18.** (1) The Director is the principal adviser to the Governor,

Director's advice

the Minister and the Board on matters relating to the physical planning and development of land.

(2) Before exercising any function conferred by this Ordinance in relation to any matter the Minister and the Board shall obtain and consider the advice of the Director.

(3) No court shall inquire whether in relation to any particular matter the Minister or the Board has sought and obtained the advice of the Director.

#### PART IV

#### DEVELOPMENT PLANS

Proposal for  
development  
plan

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

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

- (a) a reasoned statement of need for the plan;
- (b) the main headings for the proposed contents of the plan;
- (c) a suggested timetable for the preparation of the plan;
- (d) proposals for obtaining representations by and the views of people likely to be affected by or likely to wish to submit representations and views on the proposed plan during the course of its preparation;
- (e) such other matters as are required by the Minister or are considered by the Director to be necessary for a decision to be made on the proposal.

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

Scope of  
development  
plan

**20.** (1) A development plan may be prepared—

- (a) for the Islands as a whole, and shall be called a National Physical Development Plan; or

- (b) for the whole or any specified part of any Island, and shall be called by the name of the Island or part thereof to which it relates; or
  - (c) in relation to any particular subject matter and shall be called by the appellation of the matter for which it is made, and shall be in such detail and be intended to cover such periods of time as appear to the Director to be appropriate for the purpose for which it is made.
- (2) A development plan shall include—
- (a) a summary of the principal features of the plan;
  - (b) a report on the existing conditions of the area or the subject matter to which the plan would relate;
  - (c) an explanation of the proposals and their justification;
  - (d) such maps, plans, diagrams and other material as the Director considers necessary to illustrate and explain the plan.
- (3) A development plan may include—
- (a) a statement of the general principles and policies which it is considered should govern the regulation and control of development in the area concerned;
  - (b) the specification and allocation of sites for different types of development, including any development for public purposes or for use by the general public;
  - (c) the designation of any area as being an area which, for environmental, ecological, aircraft, safety or other similar reasons should not be developed;
  - (d) proposals for the preservation of buildings for architectural, cultural or historical reasons;
  - (e) such other matter as the Director considers desirable to explain or support any part of the proposed plan on demographical, ecological, economic or social grounds.

**21.** (1) The Director shall be responsible for the preparation of any development plan.

Preparation of  
development  
plan

(2) The Director shall keep the Minister and the Board informed of the progress with the preparation and the likely general content of a plan which is in the course of preparation

and shall have regard to any comments or representations made by the Minister or the Board on the proposed plan.

Consideration of  
draft develop-  
ment plan

**22.** (1) When the Director has prepared a draft development plan he shall send a copy to the Minister and shall deposit a copy at the office of the Department of Planning and at such other place or places as the Minister considers to be most effective for bringing it to the notice of persons residing, working or owning property in the area to which the draft development plan relates, or who are likely to be affected by the proposals in the draft development plan.

(2) The Director shall give notice in the *Gazette* of the depositing of a draft development plan, and of the places where it may be examined, and shall give such other publicity to and explanation of the draft development plan as, in his opinion, is best calculated to inform all persons affected or likely to be affected by the proposals in the draft development plan and of any person the right to make representations with regard to the proposals in the draft development plan.

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

(4) After the expiration of the period prescribed for making representations on a draft development plan, the Director shall lay the draft development plan, together with all representations and comments made with respect thereto, before the Board; and the Board shall meet and consider the draft development plan and such representations and comments and shall forward the same together with its own recommendations and comments to the Minister, who shall submit the same to the Governor with his own recommendation thereon.

Approval of  
development  
plan

**23.** (1) The Governor, after considering a draft development plan which has been submitted to him under section 22, and all comments, representations and recommendations made thereon, may approve the draft development plan with or without modifications, or may reject, require further work on or revision of, or may require further consultations on, the draft plan in whole or in part.

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

(3) Unless the Governor otherwise directs, the provisions of subsections (3) and (4) of section 22 shall apply to any modifications, work or revision undertaken by the Director under this section and to the re-submission of the draft plan or any modifications thereof.

**24.** (1) When a development plan has been approved by the Governor, in whole or in part, a copy of it shall be deposited at the offices of the Department of Planning, the Survey Department and with the Registrar of Lands at the Land Registry, and the substance of the plan shall be publicized in the area or areas to which it applies, in such manner as the Minister may direct.

Deposit of  
approved plan

(2) A copy of a National Physical Development Plan, or of any plan which affects, or may affect, all the Islands, shall be deposited at the office of every District Commissioner. A copy of a plan which only applies to part of the Islands shall be deposited at the office of each District Commissioner responsible for the area concerned.

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

(4) Copies of a plan shall be available for inspection and purchase, at such price as may be prescribed, at all reasonable times at the office of the Department of Planning.

**25.** (1) The Minister may require the Director to review or prepare proposals for modification or revocation of any plan, or any part thereof.

Modification or  
revocation of  
plan

(2) Without prejudice to subsection (1), it shall be the duty of the Director to keep under review the operation of any plan in the light of changing circumstances in the area to which it applies, or for any other reason which in his opinion requires such review, and if he considers it desirable he may prepare proposals for the modification or revocation of any plan and shall submit the same to the Minister.

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

(4) Subject to the provisions of this Ordinance, the Governor may modify or revoke any plan or part thereof.

**26.** (1) If there is any conflict or discrepancy with regard to the application or interpretation of two or more plans drawn to different scales, the plan drawn to the larger scale shall have precedence.

Application of  
different plans  
applicable to the  
same area

(2) Where two different plans have been approved which apply in whole or in part to the same area, the later plan shall be deemed, so far as there is any conflict between the two, to have modified the earlier plan unless there is express provision to the contrary.

Legal status of  
development  
plan

**27. (1)** When a plan has been approved by the Governor—

- (a) it shall be the duty of all public officers to have due regard to, and so far as is practicable be guided by, the plan in formulating and preparing any project of public investment and development in the Islands;
- (b) the Minister and the Board shall, in considering any application for development permission, have regard to, and, as far as it appears to be consistent with the objectives set out in subsection (1) of section 14, be guided by the plan.

(2) The Board shall, if it appears to it that to grant an application for development permission would be inconsistent with a plan which has been approved by the Governor, but nevertheless considers that such permission should be granted—

- (a) refer the application to the Minister who shall pass the application to the Governor for his consideration; and
- (b) defer a decision on the application until the advice of the Governor has been received in relation to that application; and
- (c) not grant development permission in relation to the application unless the Governor has advised it that development permission should be granted thereon.

(3) Where an application for development permission is to be considered by the Minister under the provisions of this Ordinance, and it appears to him that a grant of such application would be inconsistent with a plan which has been approved by the Governor, but the Minister nevertheless considers that such permission should be granted, he shall refer the application to the Governor and shall thereafter apply the provisions of paragraph (b) of subsection (2).

(4) When a plan is in the course of preparation or has been prepared but not yet approved by the Governor, subsection (1) of this section shall apply as if the plan had been approved.



(5) No court shall inquire into whether the provisions of the foregoing subsections of this section have been complied with in relation to any matter.

## PART V

### DEVELOPMENT CONTROL

**28.** (1) No person shall carry out any development unless, prior to the commencement of such development, approval therefor has been obtained under the provisions of this Ordinance or the development is permitted development authorized under the provisions of subsection (2).

Restriction on  
development

(2) The Governor may by order provide that any development or class of development shall be permitted without the requirement for a grant of development permission. Any such development is hereinafter referred to as permitted development.

**29.** A grant of development permission shall be one of the following—

Types of  
development  
permission

- (a) outline development permission, the effect of which is to give to the grantee, or his successor in title, approval in principle to the proposed development which is the subject of an application, but not to permit any actual development to take place until a grant of detailed development permission has been made in respect of the same development, or part thereof, for which outline development permission was given;
- (b) detailed development permission, the effect of which is to permit the grantee, or his successor in title, to carry out the development, subject to the terms and conditions of the grant of detailed development permission;
- (c) permission to subdivide land, the effect of which is to permit the grantee, or his successor in title, to subdivide, or to make an agreement to subdivide, land which is the subject of the application, subject to the terms and conditions of the permission to subdivide the land;
- (d) permission to display an advertisement, the effect of which is to permit the grantee, or his successor in title, to display an advertisement subject to the

terms and conditions of the permission to display the advertisements.

Applications for  
development  
permission

**30.** (1) An application for a grant of development permission shall be submitted to the Board through the Director, in accordance with the requirements of any regulations made with respect to such applications, and shall be accompanied by the fee prescribed therefor.

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

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

if the Director is of the view that the application will, or is likely to derogate from the amenities of the public or of adjoining, adjacent or nearby properties.

(3) The Director shall notify the applicant for development permission, in writing, of the decision on the application, giving—

- (a) where the application is granted, the conditions (if any) subject to which the permission is granted and the reasons therefor; or
- (b) where the permission is refused, a brief statement of the reasons for such refusal.

(4) The Director shall inform an applicant for development permission of the decision taken on his application within sixty days of the receipt by him of the application, or, where no decision has been made within the time, of the progress made on the application and the likely date when a decision will be made:

Provided that if no decision is made within 60 days of receipt of the application, that application shall be deemed to have been refused for the purposes of section 82 (1) (a).

Minister's  
certificate of  
approval

**31.** (1) Where an application for permission to develop land is made to the Board pursuant to this Part, and the proposed development falls within one or more of the categories specified in subsection (2) hereof, the Board shall, without prejudice to the generality of its discretion to refuse permission under the provisions of this Ordinance, refuse permission unless the application is accompanied by a certificate of approval granted under this section.

(2) A certificate of approval shall be required in respect of the following applications—

- (a) applications for permission to erect or convert an existing building into an hotel of more than ten guest bedrooms;
- (b) applications for permission to increase the provision of sleeping accommodation for guests in an hotel of more than ten bedrooms;
- (c) applications for permission to develop Crown land;
- (d) applications for permission to develop more than one subdivision or for the subdivision of land into more than ten parcels;
- (e) applications for permission for developments which appear to the Director to involve expenditure exceeding one million dollars, excluding the value of the land required to effect such development;
- (f) applications for permission for a development of a type or class which may from time to time be specified by the Governor or the Minister.

(3) To establish whether a certificate of approval is required under paragraph (f) of subsection (2), the Director shall, on receipt of an application for permission for development which he considers, in his discretion, may require such certificate, forward a copy of the application for permission to develop with his observations thereon, to the Minister, and shall notify the applicant and the Board of this action. The application shall thereupon be regarded as requiring a certificate of approval, unless the Minister notifies the applicant and the Director that no certificate is required in respect of the application.

(4) An application for a certificate of approval shall be made to the Minister in such form and in such manner as may be specified by the Director.

(5) The Minister may, in his discretion, grant a certificate of approval in respect of which an application has been made under sub-section (4) either unconditionally or subject to such conditions as he thinks fit, but if, in relation to any application, the Minister is of the opinion that it would be undesirable in the public interest that a certificate of approval should be granted, he may refuse to grant a certificate and may give reasons for so refusing.

(6) Any person aggrieved by the refusal of the Minister to grant a certificate of approval or by the imposition of any

condition on the grant of such certificate may, within thirty days after receipt of notification of the decision of the Minister or such longer period as the Governor may for good cause allow, appeal against that decision to the Governor and the decision of the Governor on the appeal shall be final and the Minister shall act upon such decision accordingly.

(7) In the event that development permission is granted, any condition in a certificate of approval shall, without prejudice to any other condition that the Board may impose, be deemed to be for all the purposes of this Ordinance a condition subject to which the permission was granted.

Director may  
require further  
information

**32.** (1) If so required by the Director by written notice, an applicant for development permission shall—

- (a) furnish the Director, within such reasonable time as may be prescribed in the notice, with such further information relevant to the application as may be specified in the notice;
- (b) at his own expense, cause an environmental impact or economic feasibility study to be made of the proposed development by a suitably experienced person approved by the Director;
- (c) permit the Minister, or members of the Board, to enter upon and inspect the land to which the application relates:

Provided that if the applicant, at the time of the application does not have such interest in the land to which the application relates as would enable him to permit the Minister or members of the Board to enter upon the land, he shall use his best endeavours to obtain that permission.

(2) The Board may defer a decision on an application for development permission until it is satisfied on the matters in respect of which further information is or has been required under the provisions of this section.

Consultation in  
relation to  
applications

**33.** (1) The Director shall consult with any public officer or other person who appears to him to be likely to provide information relevant to an application for development permission to enable the Director to advise the Minister or the Board, as appropriate, with regard to the application.

(2) Any public officer or other person such as is mentioned in subsection (1), or his representative, may be invited by the Board to attend and speak at any meeting called to consider the relevant application.

**34.** (1) In considering an application for development permission, the Board shall take into account such of the following matters as appear to it to be relevant, or as the Director may advise, in order to make a proper decision on the application, namely—

Matters for  
consideration by  
the Board

- (a) the provisions of any development plan applicable to the area where the proposed development would take place;
- (b) any information, advice or study report provided by the applicant in response to a notice served on him under section 32;
- (c) the impact of the proposed development on the ecology of the island where it is to take place;
- (d) any representations made by any person with regard to the application or the probable effect of the proposed development;
- (e) the impact of the proposed development on the natural or built environment and on the uses of adjacent land;
- (f) where the proposal is for a commercial or industrial development—
  - (i) the quality and economy of the proposed layout and of its design;
  - (ii) traffic considerations;
  - (iii) the benefits likely to accrue to and the disadvantages that may be imposed on economic, social and welfare facilities, including prospects of employment and the effect on the infrastructure of the Islands, as a result of the proposed development;
- (g) the financial and other resources which are, or which will be, available to the applicant for the development permission;
- (h) the area of land required for the proposed development;
- (i) such other matters as the Director considers to be relevant to the determination of the particular application.

(2) Advice given to the Board by the Director, under subsection (1) shall be in the form of a report on each application, summarizing any relevant factors recommended to be taken into

account in respect of that application and the suggested appropriate decision to be given on the application.

(3) The Board may, in addition to the matters set out in subsection (1), take into account any other material considerations notwithstanding that the Director has not advised the Minister or the Board on these matters.

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

(5) No claim to compensation or damages shall lie against any person in respect of, or arising out of, or in connection with, any refusal of permission for development in relation to which subsection (4) applies, nor shall any such claim lie in respect of, or arising out of or in connection with, the grant of any such permission subject to such conditions as the Minister or the Board considers proper.

Development  
Agreements

**35.** (1) The Board may, on the advice of the Director, and with the consent of the Governor, enter into an agreement with any person as to the nature, scope, timing or any other aspect of any proposed or contemplated development.

(2) Notwithstanding any other provision of this Ordinance, where an agreement to which subsection (1) relates, provides that the Board will grant an application for development permission subject to compliance with the provisions of that agreement, then on receipt of an application complying with such provisions for development permission, the Board shall grant that permission and may not impose on such grant, conditions other than those (if any) contemplated by that agreement.

Decision of the  
Board on  
applications

**36.** (1) The Board may grant an application for development permission either unconditionally or subject to such conditions as it may require or may think fit to impose, or may refuse an application.

(2) Without prejudice to the generality of subsection (1), the conditions which the Board may impose when granting development permission are such as are likely to be for the advantage of any matter mentioned in sub-section (1) of section 34, and in addition may cover all or any of the following matters,

namely—

- (a) the timing and phasing of a development;
- (b) arrangements for the disposal of sewage, effluent or trade waste from the development;
- (c) arrangements for the supply of water and the catchment and storage of rain water on the development;
- (d) landscaping;
- (e) the preservation of trees, vegetation and other natural products of the land where the development is to take place and on any other land contiguous to the development which is owned by, or under the control of, or likely to be under the control of, or used by, the developer or his agents or contractors for the purposes of, or in connection with, the development;
- (f) the reservation of any part of the area on which the development is to take place for roads, open space or other public or communal purpose reasonably incidental to the development;
- (g) the nature of the materials to be used in any construction or in-filling operations in the development;
- (h) controlling the processes of development, including the routing of any vehicles or vessels to be used for the purposes of or in connection with the development, and the tidying up of the land, and any adjacent land used for the purpose of or in connection with the development and the removal of materials and waste from such land when the development is completed;
- (i) the duration of the development and, if appropriate, the removal of any building or other structure and the restoration of the site or any part thereof at the end of the period for which the development is to be allowed;
- (j) the discontinuance of any existing uses of the land on which the development is authorized;
- (k) with respect to the implementing or not implementing of any prior grant of development permission in respect of the same land, or adjacent land owned by or under the control of the developer or his agents;

- (l) controlling or prohibiting the use on the land comprising the development of any advertisement including the size, shape, colour or location of any such advertisement;
- (m) arrangements for the accommodation of any persons engaged in the construction of the development or present in the Islands for the purpose of working on the development when completed;
- (n) the entering into a performance bond with the Crown to guarantee the implementation of any of the conditions subject to which the grant of development permission is made.

(3) A condition may be imposed under this section as to the use of any land which is contiguous to the land to which a grant of development permission relates, which is in the possession of or under the control of the developer, if it appears to the Board that it is expedient to impose such a condition for the purposes of or in connection with the development to which the grant of development permission relates.

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

(5) No claim to compensation shall lie against the Government, the Governor, the Minister, the Board, or any other public officer in connection with or arising out of—

- (a) the refusal by the Board to grant development permission; or
- (b) the grant by the Board of development permission subject to conditions.

Lapse of  
development  
permission

**37.** (1) An outline development permission shall lapse and cease to have effect if no detailed development permission covering the same land has been applied for within one year of the grant of outline development permission, or such longer period as may be specified in the grant of outline development permission or as may be authorized by the Board in any particular case.

(2) A development permission other than outline development permission shall lapse and cease to have effect if the development to which it relates has not been completed within three years of the grant of detailed development permission, or



such longer period as may be authorized by the Board in any particular case.

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

(4) The Board may serve written notice on a person who has commenced, but has not completed, within the time (if any) prescribed therefor, the development for which he has obtained permission, requiring that person to complete the development within the time specified in such notice.

**38.** A grant of development permission may provide that the development to which it relates shall only be permitted to continue for a limited period. In such case, the grantee or his successor in title may at the expiration of that period recommence the use of the land for the purpose for which it was used before the grant of permission for such limited period, if, and only if, that use, having regard to the provisions of this Ordinance and of the repealed Ordinance, was a lawful use.

Development  
permission for  
limited period

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

Supplementary  
provisions as to  
the effect of a  
grant of  
development  
permission

(2) Where a grant of development permission is made for the erection of a building, the grant may specify the purposes for which the building may be used, and if no purpose is so specified, the grant shall be construed as including permission for the use of the building for the purposes for which it is designed, and for no other purpose.

**40.** (1) The Director, acting on behalf of the Board, may approve a variation to a grant of development permission which in his opinion is a minor variation, and in such event the Director shall inform the Board of the action which he has taken in that particular case.

Minor variation  
of development  
permission

(2) Where the Director is requested to approve a variation under subsection (1) but is of the opinion that the variation proposed is not a minor one, he shall, in writing, inform the applicant for approval that his request must be submitted to the Board for approval of the variation.

Modification or  
revocation of  
development  
permission

**41.** (1) Subject to the provisions of this section, if it appears to the Board, after consideration of such advice as may be given by the Director, that it is desirable that any grant of development permission ought to be modified or revoked, the Board may, by written notice to the person entitled to the benefit of the permission, revoke or modify the development permission to such extent as it considers desirable.

(2) The power conferred on the Board by this section may be exercised—

- (a) where the grant of permission relating to the carrying out of building or other physical operations, at any time before those operations have been completed;
- (b) where the grant relates only to a change of use of any land, at any time before the change has taken place.

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

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

- (a) a statement of the reasons for the modification or revocation;
- (b) such directions as the Board shall consider necessary for the bringing to an end of any development to which the notice relates;
- (c) information as to any right to compensation that may arise in consequence of the modification or revocation, and the procedure for making any claim for compensation;
- (d) such other matters (if any) as may be prescribed.

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

Provided that the Board, after considering any representations made in respect of such notice, may at any time cancel or withdraw such notice.

(6) An appeal shall lie, under section 82, against the issue of a notice by the Board under subsection (1), or against the

refusal of the Board to cancel or withdraw such notice under the proviso to subsection (5). Pending the determination of any such appeal the notice concerned shall be deemed to be suspended in its operation, save that any further development or work carried out shall be unauthorized development.

(7) For the purposes of this section the modification of a grant of development permission shall include the imposition of conditions, or additional conditions, and the alteration of a grant of development permission.

**42.** (1) The Governor may direct the Board to refer to him (or to the Minister if he deems it expedient)—

Reference of  
applications for a  
grant of  
development  
permission to the  
Governor

- (a) all applications for development permission in relation to a particular type or class of development;
- (b) all applications for development permission in relation to any locality in the Islands designated by the Governor;
- (c) all applications for development permission in relation to a particular type or class of development in a locality in the Islands, designated by the Governor;
- (d) any other application for development permission.

(2) The Board shall—

- (a) refer to the Governor or the Minister (as applicable) for his decision any application for development permission to which a direction made under subsection (1) relates;
- (b) refer to the Governor for his decision any application for development permission to which section 4 of the National Parks Ordinance relates.

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**43.** (1) In a case where any development by the Government, or by any statutory authority or body is proposed, the procedure shall be similar to that provided by this Part for any other application for development permission, save that the Board shall not give a decision, as provided in section 36, but shall consider the proposal and make recommendations to the Minister as to whether the proposal should be approved, with or without conditions, modified or rejected.

Developments  
by Government

(2) The Minister shall forward to the Governor the recommendations of the Board, submitted under subsection (1), together with any report on the proposal prepared by the Director and his own observations on the matter.

(3) The Governor, upon consideration of a proposal referred to him under this section, shall have powers similar to those of the Board acting under section 36 and shall determine the matter accordingly. No appeal shall lie against a decision given by the Governor under this section.

Governor may  
revoke or modify  
grants of  
development  
permission

**44.** (1) Subject to the provisions of this section, the Governor may, by Government Notice, modify or revoke any grant of development permission.

(2) The provisions of subsections (2), (3), (4) and (5) of section 41 shall apply in the case of the exercise of the power conferred by subsection (1) of this section as if references to the Governor were substituted for references to the Board. No appeal shall lie from a decision of the Governor given under this section, but subject to the provisions of Part IX any person whose interest is affected thereby may be entitled to claim compensation.

Enforcement  
notices

**45.** (1) If it appears to the Director that any development of land, other than a change of use, has been carried out without the grant of development permission required under this Part, or in contravention of a notice of modification or revocation served in respect of that development, or that any conditions, subject to which a grant of development permission was granted, have not been complied with, the Director may, with the consent of the Minister, within six years of such unauthorized development or contravention taking place, if he considers it expedient so to do having regard to any development plan applicable to the area where the unauthorized development has taken place, and the factors set out in subsection (1) of section 47, issue an enforcement notice under this section, and serve a copy of that enforcement notice on the owner and occupier of the land.

(2) Where the development alleged to have taken place is a change of use of land, there shall be no time limit restricting the issue of a notice under subsection (1), and in all other respects the provisions of subsection (1) shall apply.

(3) The consent of the Minister referred to in subsection (1) may be given either in respect of a class or classes of enforcement notices or of a particular enforcement notice and such consent shall be stated in that enforcement notice.

(4) An enforcement notice shall state clearly—

- (a) the unauthorized development to which it relates;
- (b) the person or persons to whom it is addressed;
- (c) the time at which it comes into effect;
- (d) the steps which must be taken to rectify the alleged unauthorized development and the time, being not

less than two months within which they must be taken;

- (e) the powers of the Board, in case of default in compliance with the notice, to enter upon the land and undertake the steps specified in paragraph (d);
- (f) the penalties which may be incurred if the steps specified in paragraph (d) are not undertaken;
- (g) the right of the owner and occupier of the land or building the subject of the enforcement notice to request a reconsideration of, or to appeal against the enforcement notice.

(5) If, within the period mentioned in paragraph (d) of subsection (4), an application is made to the Board for the reconsideration or withdrawal of an enforcement notice or for permission—

- (a) for the retention on the land of any buildings or works to which the enforcement notice relates; or
- (b) for the continuance of any use of the land to which the enforcement notice relates, the operation of the enforcement notice shall be suspended pending the final determination of the application and if the permission applied for is granted on that application, the enforcement notice shall not take effect.

(6) When, within the period mentioned in paragraph (d) of subsection (4), notice of an appeal is given under section 51 by a person on whom the enforcement notice was served, the operation of the enforcement notice shall be suspended pending the determination or withdrawal of the appeal.

(7) The Director, with the approval of the Minister, may withdraw or modify an enforcement notice, and the provisions of this section shall apply to any modification of an enforcement notice made under this section as they apply to the enforcement notice.

(8) The Director shall inform the Minister and the Board at the earliest opportunity of any action taken under this section.

**46.** (1) At any time within twenty eight days of the service of an enforcement notice, the person upon whom such notice has been served may, upon giving reasons in writing, request that the matter to which the notice relates be referred to the Board for reconsideration, and the Director shall arrange accordingly and shall inform the Minister of the action taken.

Reconsideration  
of enforcement  
notices

(2) The Board shall, within two months of the receipt of a request made under subsection (1), reconsider the enforcement notice and may confirm the notice, with or without modification, or may withdraw the notice. The Director shall forthwith in writing communicate to the person who made the request for reconsideration, and to any other person on whom the notice was served, the decision of the Board on the matter.

(3) For the purposes of the hearing of an application made under this section, the Board may permit the person making the request to appear in person or by his legal or other representative before the Board or to make representations in writing.

(4) Any modification of the terms of an enforcement notice which is reconsidered under the provisions of this section shall not require any person on whom the notice was served to undertake more work or incur more expense than was required by the notice before it was modified.

Considerations  
with respect to  
issue of  
enforcement  
notices

**47.** (1) In considering, or re-considering, whether or not an enforcement notice shall be served or confirmed the Minister, or the Director or the Board as the case may be, shall take into account such of the following matters as may be relevant in the circumstances of the particular case, namely—

- (a) any development plan applicable to the area or Island concerned where the unauthorized development is alleged to have taken place;
- (b) the nature and extent of the unauthorized development;
- (c) the harm to the natural or built environment and the degree of nuisance caused to owners or occupiers of adjacent property or of other proposed development;
- (d) the length of time the unauthorized development has existed;
- (e) the expense likely to be involved in compliance with the notice by the person who may be, or has been, served with the notice and his capacity to meet that expense;
- (f) the benefits (if any) resulting from the unauthorized development;
- (g) any possible alternative measures which could be taken to rectify or regularize the unauthorized development;

- (h) whether it is necessary, desirable and convenient having regard to the public interest to serve or confirm an enforcement notice;
- (i) any other material considerations.

(2) Any members of the Board, authorized by the Board, or the Director or any person acting on his instructions, may inspect any development to determine whether, and if so to what extent, that development is unauthorized and the Board may take into account the evidence obtained from such inspection in any decision on whether or not to confirm an enforcement notice. In the case of any such inspection such prior notice of the time and date of the proposed inspection as is considered by the Director to be reasonable shall be given to the person upon whom the enforcement notice has been served.

(3) The Director shall obtain, so far as appears to him to be possible, any technical, professional or scientific advice which he considers to be necessary for a satisfactory decision to be made on any matter relating to an enforcement notice, and shall place a summary of any such advice, together with his own recommendation, before the Board when it is considering a request made under section 46.

**48.** (1) The steps which the Board 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 all or any of the following namely—

- (a) to demolish or remove a building in whole or in part;
- (b) to erect, re-erect or alter a building in whole or in part;
- (c) to restore land as near as may be to the appearance and state that it had before the unauthorized development took place including planting or replanting of trees and other vegetation;
- (d) to remove any advertisement or to display it in the place permitted by a grant of development permission;
- (e) to discontinue any use of land or buildings;
- (f) to carry out any building or other operations on the land to which the notice relates;
- (g) to comply with any limitation or condition in a grant of development permission;

Scope and effect  
of enforcement  
notices

(h) to do or to refrain from doing or to take or to refrain from taking any actions similar to those listed in paragraphs (a) to (g) which would 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 Board may authorize the Director to enter the land with such assistants as may be necessary, and to take all such necessary action in respect of the unauthorized development to enforce the notice as it may see fit.

(3) When the Board has exercised any power under subsection (2), it may recover as a civil debt, from the person upon whom the notice has been served, those expenses reasonably incurred by it in the exercise of such power, and if that person, having been entitled to appeal under section 51, has failed to make such an appeal he shall not be entitled in any proceedings to dispute the validity of the action taken by the Board or the Director upon any ground that could have been entertained on such an appeal.

Protection of  
prospective  
purchasers with  
respect to  
unauthorized  
development

**49.** Where a prospective purchaser of any land serves notice on the Director that—

- (a) he intends purchasing land described in the notice; and
- (b) he is unaware of any development having been carried out on that land without the grant of permission in that behalf, then, unless the Director, within forty-two days of the receipt of such notice, notifies such prospective purchaser of any development which has been carried out on the land without permission granted in that behalf, all development thereon at the time of the receipt of such notice by the Director shall, for the purposes of any enforcement notice thereafter issued, be deemed to have been permitted by the Board.

Continuing  
operation of  
enforcement  
notices

**50.** (1) Compliance with the requirements of an enforcement notice shall not discharge the enforcement notice.

(2) Without restricting the generality of subsection (1), where any development is carried out by way of reinstating or restoring buildings or works that have been demolished or altered in compliance with an enforcement notice, the enforcement notice shall, notwithstanding that its terms are no longer wholly apt for the purpose, be deemed to apply in relation to any



building or works so reinstated or restored as it applied in relation to such building or works before they were demolished or altered, and subsections (2) and (3) of section 48 shall apply accordingly.

**51.** (1) If any person on whom an enforcement notice is served and, after reconsideration, confirmed by the Board, is aggrieved by the enforcement notice, he may at any time within twenty-eight days of the decision of the Board appeal against the enforcement notice under section 82 and on any such appeal the Minister—

Appeal against  
enforcement  
notices

- (a) if satisfied that permission was granted under this Part for the development to which the enforcement notice relates, or that no such permission was required in respect thereof, or, as the case may be, that the conditions subject to which such permission was granted have been complied with, shall quash the enforcement notice to which the appeal relates;
- (b) if satisfied that a variation of the enforcement notice would be appropriate, may vary the enforcement notice accordingly;
- (c) in any other case shall dismiss the appeal and may make such order as to costs as he thinks just.

(2) Where the enforcement notice is varied or the appeal is dismissed, the Minister may, if he thinks fit, direct that the enforcement notice shall not come into force until such date, not being later than twenty-eight days from the determination of the appeal, as the Minister thinks fit.

**52.** (1) The Director may, in any case in which he considers that unauthorized development has taken place, by written notice served on the owner and the occupier of the property concerned, require that an application shall be submitted for development permission and in such case the Director shall refrain from issuing an enforcement notice if such application for development permission is submitted within twenty-eight days of the service of such notice or such extended period as may be agreed.

Notice to apply  
for development  
permission

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

(3) On the recommendation of the Director, made in respect of an unauthorized development which the Director considers is of a minor nature, the Board may issue a grant of

development permission without first requiring a formal application from the person concerned with the unauthorized development.

Public officers:  
prohibition  
against doing  
certain business

**53.** (1) A public officer commits an offence if, in expectation of any fee or reward payable to him or any relative of his, he applies on behalf of, or assists any person applying for development permission or any other consent by drawing or assisting in the drawing of plans or preparing any document or particulars which he knows or has reason to suspect will or may be used in connection with an application to the Board, or to the Director, unless he does so in the course of his duties as a public officer and otherwise than in expectation of any fee or reward from the applicant or with the approval of the Director.

(2) A person convicted of an offence against subsection (1) shall be liable on conviction to a fine of \$10,000 and to imprisonment for two years.

(3) For the purposes of subsection (1), where it is proved that a public officer assisted an applicant by the drawing of plans or preparing any document or particulars and subject to the exceptions therein, it shall be presumed that he did so in expectation of a fee or reward payable to him or a relative of his unless he proves to the contrary.

(4) In this section “relative” has the same meaning as it has under subsection (2) of section 10.

## PART VI

### SUPPLEMENTARY PROVISIONS FOR CONTROL OF DEVELOPMENT

Building  
preservation  
orders

**54.** (1) The Director may, and if so directed by the Minister or the Board shall, cause a survey of the buildings in any area of the Islands to be made with a view to determining if, having regard to the importance of preserving the landscape, architectural, cultural and historical heritage of the Islands, any such building or part thereof or group of buildings or area of architectural interest ought to be made the subject of a building preservation order, as hereinafter provided.

(2) For the purposes of this Part an area of architectural interest shall be an area within which, in the opinion of the Director, after consultation with the Director of National Heritage, the various buildings and other structures provide a harmonious unit which contributes towards the landscape, architectural, cultural and historic heritage of the Islands, the

boundaries of which shall be shown on a plan attached to the draft building preservation order seeking to establish such an area.

(3) The Director, either upon receipt of a report under subsection (1), or of his own initiative in any other case, where he considers it desirable that a building preservation order should be made, shall prepare a report for submission to the Board, together with a draft building preservation order as appears to him to be required in the circumstances.

(4) The Board, within thirty days of the receipt of any report and a draft order under subsection (3), shall consider the matter and recommend to the Minister whether or not the draft building preservation order should be confirmed.

(5) Where the Board recommends that the draft building preservation order should be confirmed, a copy of the draft order shall be—

- (a) served on the owner and occupier of the building or group of buildings concerned; and
- (b) affixed in a prominent place on each building to which the order would apply if confirmed.

(6) Within twenty-eight days of the service of a draft building preservation order, or the affixing of a copy of the draft order, under subsection (5), any person may make representations in writing to the Minister in regard to the proposed building preservation order.

(7) The Minister shall consider the recommendation of the Board made under subsection (4) and any representations made to him under subsection (6) and may confirm the draft order, with or without modifications or may reject the draft order:

Provided that where any building to which the draft order relates is the property of the Crown, the Minister instead of making a decision on the matter, shall submit the draft order to the Governor, with the recommendation of the Board and his own recommendation, and the Governor may confirm the draft order, with or without modifications, or may reject the draft order.

(8) A draft building preservation order which has been recommended by the Board, shall lapse and cease to have any effect unless it is confirmed by the Minister or by the Governor, as the case may be, within six weeks of the date when it was recommended by the Board.

(9) Subject to subsection (8), pending the decision on a draft building preservation order, the draft thereof shall be deemed to have effect as an interim building preservation order, as if made under section 55, with effect from the date of service

of the draft order, or the affixing of a copy thereof, under subsection (5), whichever is the earlier.

(10) No person shall develop, demolish or engage in any building operations, other than essential repairs, or attempt to do so, in respect of any building which is the subject of a building preservation order without first obtaining a grant of development permission from the Board.

(11) In considering whether to grant, with or without conditions, or to refuse, an application for development permission in respect of a building which is the subject of a building preservation order in addition to any other matters which, under the provisions of this Ordinance, it is required to take into account, the Board shall have regard to the matters mentioned in subsection (1) as considerations for the making of such an order.

(12) Notice of the making of a building preservation order shall be published in the *Gazette*.

(13) For the purposes of this section and section 55, a group of buildings may be made the subject of a building preservation order if by reason of their proximity and relationship to each other it is considered desirable that the whole group should be preserved.

Interim building  
preservation  
orders

**55.** (1) The Director may, in any case in which he considers that the urgency of the matter and the significance of the building or buildings warrants such action, after consultation with the Director of National Heritage, if practicable, make an interim building preservation order in respect of any building or group of buildings.

(2) The Director shall cause a copy of an interim building preservation order to be served on every owner or occupier of the building or group of buildings in respect of which it has been made and affixed in a prominent place on each building to which the order applies.

(3) As soon as possible after the making thereof, the Director shall lay before the Board a copy of the interim order, together with a report giving the reasons for the action which he has taken. The Board, upon consideration of the interim order and the report of the Director, shall, within fourteen days of the receipt thereof, forward the same to the Minister with a recommendation as to whether or not the interim order should be confirmed.

(4) The Minister shall consider the interim order and the recommendation of the Board made under subsection (3) and

may confirm the interim order, with or without modification or may reject the interim order:

Provided that if an interim order relates to a building which is the property of the Crown, the Minister, instead of making a decision, shall refer the matter to the Governor with the recommendation of the Board and his own recommendation and the Governor may confirm the interim order, with or without modification, or may reject the order.

(5) An interim order which is not confirmed by the Minister or the Governor, as the case may be, within six weeks of being recommended by the Board shall lapse and cease to have effect.

(6) The provisions of subsections (9) and (10) of section 54 shall apply to an interim building preservation order as they apply to a building preservation order.

**56.** (1) A plant preservation order may be made in respect of any plant or group or species of plants, the preservation of which is, in the opinion of the Minister, desirable for amenity, environmental, landscape, scientific or similar reasons.

Plant  
preservation  
orders

(2) The provisions of section 54 shall apply *mutatis mutandis* to the making of a plant preservation order as they apply to the making of a building preservation order.

(3) In any case in which the Director is satisfied that the making of a plant preservation order is a matter of urgency and that the circumstances justify such action, he may make an interim plant preservation order, and the provisions of section 55 shall apply *mutatis mutandis* to an interim plant preservation order as they apply in the case of an interim building preservation order.

**57.** (1) If it appears to the Board that it is expedient in the interests of the proper planning of the Islands (including the interests of amenity), regard being had to a development plan and to any other material consideration—

Notices requiring  
discontinuance  
of use or  
alteration or  
removal of  
buildings or  
works

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

the Board may with the consent of the Minister, by notice require the discontinuance of that use, or impose such conditions as may be specified in the notice on the continuance thereof, or require such steps as may be so specified to be taken for the alteration or removal of the buildings or works, as the case may be.

(2) The provisions of subsections (4), (5), (6), (7) and (8) of section 45 and sections 46 to 51, inclusive, shall apply to a notice served under subsection (1) and in like manner to an enforcement notice served under section 45, save that—

- (a) references to an enforcement notice in those provisions shall have effect as if they were references to a notice served under subsection (1);
- (b) references to unauthorized development shall have effect as if they were references to the use of land or the buildings or works specified in the notice served under subsection (1);
- (c) where a claim for compensation has been submitted under section 75, the provisions of subsection (3) of section 48 (recovery of expenses incurred by the Board in enforcing a notice, on non-compliance by the recipient of the notice) shall be exercisable only by way of counter-claim, to be offset against the said claim for compensation;
- (d) paragraph (a) of subsection (1) of section 51 shall not apply;
- (e) references to “rectify” and “rectify or regularise” unauthorized development shall have effect as if they were references to the carrying out of the acts and works required under the notice served under subsection (1),

and, notwithstanding the adoption of the said provisions for the purposes of this section, it shall not be imputed that work previously carried out under a valid development permission shall be retrospectively deemed unauthorized.

Amenity orders

**58.** (1) In any case in which the Director considers that land is—

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

he may prepare and submit to the Board a draft amenity order.

- (2) An amenity order shall specify clearly—
- (a) the land to which it applies, and the owner or occupier thereof;
  - (b) if any matter is required to be cleared, that matter;
  - (c) if screening is required to be carried out, the requirements to effect the screening; and
  - (d) the time, not being less than twenty-eight days from the date of service of the order upon the owner or occupier, for compliance with the order.

In the case of an order requiring clearance the order shall specify the matter which must be destroyed, if appropriate, or the place, being an authorized place for the disposal of rubbish, to which it must be removed. In the case of a building, the order shall specify the manner in which the building is required to be repaired, painted or demolished, in whole or in part.

(3) Where the Director is aware that the occupier of land to which an amenity order is made is not the owner, the order shall specify what action is required to be taken by the occupier and what action by the owner.

(4) A draft amenity order prepared by the Director under subsection (1) shall be submitted to the Board, together with a statement by the Director in support of the proposed action. The Board, if it recommends the making of the draft order, shall forward it to the Minister together with its recommendation.

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

Provided that where the land to which such an order would apply is the property of the Crown, the Minister shall not approve or reject the draft order, but shall refer the matter to the Governor, with his own recommendation, and the Governor shall confirm, amend or reject the draft order as the circumstances of the case appear to him to require.

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

Appeal against  
amenity orders

**59.** (1) Any person upon whom an amenity order has been served under the provisions of section 58 may appeal, under section 82, against the making or terms of such order.

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

- (a) the person upon whom an order has been served is not an owner or occupier of the land to which the order applies;
- (b) the person upon whom the notice has been served has no control over and no authority to remove, destroy or demolish any matter or building referred to in the order;
- (c) the time within which the order must be complied with is not reasonably sufficient for the purpose;
- (d) the work specified in the order is unreasonable in character or extent or is unnecessary;
- (e) that having regard to the character and condition of land and buildings in the immediate neighbourhood and visible to persons using any public highway, the order is unreasonable or discriminatory;
- (f) the provisions of section 58 were not in a material particular complied with;
- (g) on a point of law,

and no other grounds shall be admitted.

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

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

Public access for  
recreational  
purposes

**60.** (1) Where it appears to the Governor that it is desirable that members of the public should have access to any land for open air recreation and perambulation on such land, he may—

- (a) where the land is unoccupied Crown land, declare by notice in the *Gazette* that the public shall have access to such land on such terms and conditions as may be specified in such notice;
- (b) in any other case, negotiate an agreement for such access with the owner or tenant thereof, on such terms as may be agreed;



- (c) in any case in which he is unable to obtain the agreement of the owner or tenant for such access, the Governor may confer a public right of access by notice in the *Gazette*, on such terms as may be specified in such notice, but in such case the owner or tenant of the land shall be entitled to receive compensation from the Government for the diminution, if any, in the value of his interest in the land by reason of such right of access by members of the public.

(2) If agreement cannot be reached in such a case as is mentioned in paragraph (c) of subsection (1), as to whether or not any compensation is payable or as to the amount thereof, the matter shall be referred to arbitration under the provisions of the Arbitration Ordinance.

*Cap. 47*

(3) The Governor may at any time alter or amend the terms on which members of the public have access to any land under the provisions of this section:

Provided that where such access has been authorized with the agreement of the owner or tenant, alteration of such terms shall only be authorized with the agreement of the owner or tenant.

## PART VII

### CONSERVATION OF NATURAL ENVIRONMENT

**61.** (1) In any case in which the Governor, after such enquiries as he considers appropriate in the circumstances, is of the opinion that, in respect of any particular area of the Islands, on account of—

Protection of  
natural resources

- (a) the natural beauty of the area; or
- (b) the flora, fauna, ecological, geological, hydro-geological or physiographical features of that area; or
- (c) the desirability of providing, under suitable conditions and control, special opportunities for the study of or research into the terrestrial or marine environment of that area,

it is desirable to afford special protection development for that area, he may by order declare that area to be a conservation area. Such an order may be expressed to include beaches and adjacent coastal waters.

- (2) An order made under subsection (1) may—
- (a) designate any part of a conservation area as being an area in which, subject to the grant of development permission, only certain developments or classes of development may be permitted;
  - (b) authorize the carrying out in the conservation area of such works and the doing on the land of such other things as may be expedient for the protection of the area as a conservation area;
  - (c) restrict or prohibit the entry into the area of any person or the movement of, or any activity carried out by, any person in the area;
  - (d) prohibit any development within the area or any part thereof.

Provisions with  
respect to land in  
conservation  
areas  
*Cap. 78*

**62.** In any case in which private land is included in an area which has been declared to be a conservation area, and in which the Governor does not acquire the land under the Land Acquisition Ordinance, any person holding any interest in such land shall be entitled to receive compensation from the Government for the diminution, if any, of the value of his interest consequential upon any restriction imposed on his use or interest in the land by reason of such declaration. If agreement cannot be reached between the Government and the party concerned as to whether or not any compensation is payable, or as to the amount thereof, the matter shall be referred to arbitration under the provisions of the Arbitration Ordinance.

*Cap. 47*

Commercial or  
industrial  
development in  
conservation  
areas

**63.** (1) Any person who proposes to submit an application for the grant of development permission for a commercial or industrial development in respect of land situated in a conservation area shall, prior to submission of such application, have prepared at his own expense an environmental impact statement on the proposed development and its likely effect on the conservation area concerned. Such impact statement shall be prepared by a person approved by the Director who, before giving his approval, shall satisfy himself that the person concerned has appropriate competence, integrity and experience. A copy of the impact statement when completed shall be sent to the Director by the applicant for development permission either before or at the same time as the application is submitted.

(2) No application for a grant of development permission for a commercial or industrial development in a conservation area shall be considered until not less than twenty-eight days have expired after the relevant impact statement has been delivered to the Director in conformity with the provisions of subsection (1).

(3) The Director shall prepare a report on any application for development permission for commercial or industrial purposes in respect of land in a conservation area, and such report shall take into account the impact statement prepared in respect of the proposed development and shall be appended to the application when it is sent to the Board.

**64.** Prior to the preparation of an impact statement required under the provisions of section 63, the Director, by written notice to the person responsible for the preparation of the impact statement may set out—

Particular  
matters for  
inclusion in an  
impact statement

- (a) particular matters which are to be investigated and reported on in the impact statement, and the degree of detail required;
- (b) the principles and guidelines of conservation by which the application for development permission is likely to be judged;
- (c) the special nature or features of the conservation area concerned, or the part thereof where the proposed development would take place, which will especially need to be preserved or maintained;
- (d) any other matters which the Director considers to be particularly relevant in the circumstances of the case.

**65.** Subject to the provisions of this Part, the procedure to be followed with respect to an application for development permission for commercial or industrial development in respect of land situated in a conservation area shall be the same as that applicable in the case of an application in respect of any other type of proposed development save that the Board shall only make a recommendation on the application to the Minister; and the Minister shall forward such recommendation with his own comments to the Governor who may approve the application, with or without any amendment, or may reject the application. No appeal shall lie from a decision given by the Governor under this section.

Determination of  
applications for  
commercial or  
industrial  
development  
permission

## PART VIII

### BUILDING REGULATIONS

**66.** Subject to the provisions of this Part no person shall commence the construction of a building without first obtaining a building permit in respect of that building.

Application of  
building control

Building  
regulations to be  
made

**67.** (1) The Governor may make regulations as to the following matters—

(a) as to new buildings—

- (i) the preparation and foundations of the site;
- (ii) the method of construction, structural strength and stability;
- (iii) the materials, including materials of short life and their preservation from decay and infestation;
- (iv) the space about buildings;
- (v) the insulation, lighting and ventilation of rooms;
- (vi) the dimensions of rooms and spaces;
- (vii) planning standards;
- (viii) fire precautions and safety;
- (ix) plumbing and water supply;
- (x) sanitation;
- (xi) electrical installations and wiring, gas installations and piping, and telecommunications services;
- (xii) lifts and other mechanical means of conveyance for access;
- (xiii) refuse disposal and emission of noxious or offensive substances;
- (xiv) hurricane and earthquake precautions and protection;
- (xv) means of access to and egress from buildings;
- (xvi) low cost housing;
- (xvii) the use of buildings or parts of buildings;
- (xviii) matters connected with, or ancillary to, any of the foregoing matters;

(b) as to existing buildings—

- (i) structural alterations or extensions to buildings, and buildings so far as affected by alterations or extensions;
- (ii) in cases where there is any material change, within the meaning of this section, to the

purposes for which a building, or as the case may be, a part of a building is used,

and, so far as they relate to the matters mentioned in this paragraph, regulations made under paragraph (a), may be made to apply to buildings erected before the date on which the building regulations came into force; and

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

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

(a) a building, or a part of a building being a building or part which was not originally constructed for occupation as a house, or which though so constructed has been appropriated to other purposes, becomes used as a house; or

(b) a building or part of a building, being a building or part which was originally constructed for occupation as a house by one family only, becomes occupied as separate establishments by two or more families; or

(c) where building regulations contain special provisions with respect to buildings used for any particular purpose, a building or part of a building not previously used for that purpose, becomes so used.

(3) Building regulations may—

(a) exempt any building, part of a building or class of building from any of the requirements of the regulations;

(b) provide for different regulations to apply to different buildings, parts of buildings or classes of buildings;

(c) provide for the imposition of or impose conditions on any permit to construct a building.

(4) Except in so far as the building regulations provide otherwise, the requirements of the building regulations shall apply in relation to work carried out or proposed to be carried out by or on behalf of the Government.

(5) Regulations made under this section may include provisions as to—

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

(6) Regulations made under this section are hereinafter in the Ordinance referred to as “building regulations”.

(7) The Governor may adopt as law of the Islands the whole or any part of any law or subsidiary legislation of any jurisdiction appearing to him to have been made for a similar purpose to that for which building regulations may be made under this section, subject to such modifications as he considers necessary or expedient.

Appointment of  
building  
inspectors

**68.** It shall be a function of the Director to enforce building regulations and the Governor shall appoint such persons as he shall deem appropriate, as building inspectors, to assist the Director in the performance of such function.

Passing and  
rejection of plans

**69.** (1) Where plans of any proposed work are, in accordance with building regulations, deposited with the Director, the Director shall pass the plans, unless—

- (a) they are defective;
- (b) they contravene any provision of the building regulations; or
- (c) there is a failure to comply with the provisions of this Part,

when he shall refer those plans to the Board together with his advice thereon.

(2) If the Director on referring plans in accordance with subsection (1) considers that the operation of any requirement contained in building regulations would be unreasonable in relation to that particular case, he may recommend that the Board relax or dispense with that requirement.

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

(4) On receipt of any plans on a referral by the Director under subsection (1), the Board may reject those plans, or pass them subject to either or both of the conditions set out in subsection (5). If the Board is advised by the Director in the manner indicated by subsection (2), it may relax or dispense with the requirements of building regulations mentioned in that recommendation and pass those plans.

(5) The conditions mentioned in subsection (4) are—

- (a) that such modifications as the Board may specify shall be made in the deposited plans; and
- (b) that such further plans as they may specify shall be deposited,

to bring the plans into conformity with building regulations.

(6) A person by whom, or on whose behalf, plans have been deposited shall, within sixty days or such extended time as may at any time be agreed by him, be notified by the Director whether those plans are passed or rejected.

(7) A notice of rejection of plans shall state the defects on account of which, or the building regulation or section of this Ordinance for non-conformity with which, or under the authority of which, the plans have been rejected.

(8) A notice that plans have been passed shall—

- (a) if the plans have been passed by the Board in exercise of any power to relax or dispense with any requirements of building regulations, or this Part, state the requirements of the building regulations or this Part, relaxed or dispensed with;
- (b) in any case state that the notice of approval operates as an approval thereof only for the purposes of the requirements of building regulations and this Part, and does not constitute development permission.

(9) Any question arising between the Board or the Director and the person by whom or on whose behalf plans are deposited as to whether—

- (a) the plans are defective; or
- (b) the work would contravene the building regulations or this Part; or

- (c) a relaxation of or dispensing with the requirements of the building regulation ought to have been granted under subsection (4), may on the application of that person be determined by the Magistrate, but no such application may be made unless it is made before the proposed work has been substantially commenced. If the question arising under this subsection is a failure on the part of the Director or the Board to decide whether the plans deposited are defective, the Magistrate may make an order requiring the Board to pass or reject the plans within a time to be specified by the Magistrate.

Power to require  
removal or  
alteration of  
work

**70.** (1) If any work to which building regulations are applicable, contravenes any provision of them or of this Part, the Board without prejudice to any prosecution under this Part may by notice require the owner either to pull down or remove the work or, if he so elects, to effect such alteration therein as may be necessary to make it comply with building regulations or this Part.

(2) If, in a case where the Board is by any provision of this Part expressly required or authorized to reject plans, any work to which building regulations are applicable is executed either without plans having been deposited, or notwithstanding the rejection of the plans, or otherwise than in accordance with any requirement subject to which the plans were passed, the Board, or the Director with the consent of the Board may by notice to the owner require him to pull down or remove the work, or, if he so elects, to comply with any other requirements specified in the notice, including requirements which might have been made as a condition of passing plans.

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

(4) No notice under subsection (1) or (2) of this section shall be given after the expiration of six years from the date of the completion of the work, and, in any case where plans were deposited, no such notice shall be served on the ground that the work contravenes building regulations or does not comply with any provision of this Part, if either the plans were passed or notice of their rejection was not given within sixty days of their



deposit or such greater period as may be agreed under section 69(6) and the work has been executed in accordance with those plans and in accordance with any requirement made as a condition of passing the plans.

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

**71.** (1) A person aggrieved by the giving of a notice under section 70 may appeal to the Magistrate's Court.

Appeals against  
notices under  
s. 70

(2) On appeal under this section, the court shall—

- (a) if it determines that the Board was entitled to give notice, confirm the notice; and
- (b) in any other case, give the Board a direction to withdraw the notice.

(3) An appeal under this section shall be brought within 28 days of the giving of notice under section 70 and the notice shall be of no effect pending the final determination or withdrawal of the appeal.

**72.** Where plans of any proposed work have been deposited in accordance with building regulations or this Part, and either the plans have been passed or notice of rejection of them has not been given in accordance with this Part, and the work to which the plans relate has not been completed within three years of the deposit of those plans, the deposit of the plans shall be of no effect.

Deposit of plans  
to be ineffective  
after three years

## PART IX

### COMPENSATION

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

Right to payment  
of compensation

- (a) where a grant of development permission has been revoked or modified and
  - (i) the holder of that permission, or his successor in title, has incurred expenses necessarily arising out of commencing to develop or

developing in accordance with that permission or has otherwise suffered loss or damage directly attributable to such revocation or modification; or

- (ii) any person with an interest in the land or who has lent money on the security of the land, has suffered loss or damage directly attributable to such revocation or modification;
- (b) where a building has been destroyed by fire, hurricane or other natural disaster and the Board refuses to allow a building of similar cubic content to be erected in the same position, as near as can be, to the destroyed building;
- (c) where the Board is empowered, under any law for the time being in force, or obtains the consent of the owner thereof to such action, to require any building to be demolished, altered, removed or relocated, or the cessation of use of any land for a particular purpose.

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

- (a) the development permitted by the development permission revoked or modified has not been carried out; or
- (b) the person claiming compensation acquired an interest in the land or building to which the development permission relates for valuable consideration after the grant of that development permission and such development permission, at the material time, had not lapsed under the provisions of section 37.

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

(4) Subject to subsection (3), no compensation shall be payable under this section in respect of any work carried out before the grant of development permission which is revoked or modified, or in respect of any other loss or damage (not being loss or damage consisting of depreciation of the value of an interest in the land) arising out of anything done or omitted to be done before the grant of that permission.

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

Position where  
land is subject to  
mortgage

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

**75.** (1) A claim for compensation alleged to be payable under this Part shall be made in writing to the Director within three months of the date upon which notice of the decision which gives rise to the claim was served upon the person who makes the claim.

Claims for  
compensation

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

(3) Where a claim for compensation has been made, the Director, after making such enquiries as appear to him to be necessary, shall submit the claim and his own recommendation on the matter to the Minister for a decision as to the action to be taken on the claim. Where such a claim for compensation cannot be settled through negotiation between the claimant and the Government, the question as to whether any compensation is payable to the claimant, or as to the amount thereof, shall be referred by the Minister for decision by the Magistrate's Court, which for the purpose shall be constituted as provided by section 18 of the Land Acquisition Ordinance, and the provisions of sections 18 to 30 of that Ordinance shall apply *mutatis mutandis* to the assessment of compensation payable under this Part as they

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apply in the case of compensation payable under the Land Acquisition Ordinance.

## PART X

## MISCELLANEOUS AND SUPPLEMENTARY

Powers of entry

**76.** (1) Subject to subsection (2), the Director, or any person authorized by him in writing, may at any reasonable time enter on any land or in any building—

- (a) to inspect or survey the land, or any building for the purpose of the preparation of any development plan, or to decide whether or not any development plan should be prepared under the provisions of Part IV;
- (b) to determine whether any unauthorized development is being or has been undertaken on the land or in any building thereon;
- (c) to determine whether any order or interim order should be made under Part VI, or Part VII or for the exercise of any powers conferred by any such order;
- (d) to obtain information relevant to the determination of any application for development permission;
- (e) for the purposes of determining whether or not any compensation is payable under Part IX, or as to the amount thereof.

(2) No person shall enter on any land or building under the provisions of this section, except with the consent of the owner or occupier thereof, without giving such owner or occupier not less than twenty-four hours written notice of his intention so to do and the intended purpose of such entry; and if the person entering requires to search and bore for the purpose of examining the nature of the sub-soil, that fact shall be stated in such notice.

(3) Before exercising any powers under this section, the Director or any other person concerned shall, so far as is practicable so to do, identify himself to the occupier or other person who is or appears to be in control of the land or building concerned.

(4) The powers conferred by this section shall be deemed to extend to permit the Director or other person concerned to

make such examination and inquiries as are necessary to achieve the purposes for which the entry was authorized.

(5) If any damage is caused by reason of the exercise of any right of entry conferred by this section, or in the making of any survey for the purpose for which such right of entry was conferred, or by the wrongful or negligent use of powers conferred, or alleged to have been conferred, by this section, the Director, as soon as may be after such entry, shall pay compensation to the person injured thereby. If the amount of such compensation cannot be agreed, the amount payable shall be determined in the same manner as compensation payable under section 73, and the Director shall refer the matter accordingly.

(6) Nothing in subsections (2) or (5) applies in respect of any work or operation which the Governor, the Minister, the Board, or any public officer is authorized to do or carry out in relation to any building or land under Part VIII or the building regulations and for the purposes of Part VIII and those regulations it is declared that the Minister, the Board and any public officer has a right to enter on any land or in any building at all reasonable hours—

- (a) for the purpose of ascertaining whether there is, or has been, on or in connection with the premises, a contravention of Part VIII of this Ordinance, or of the building regulations;
- (b) for the purpose of ascertaining whether or not circumstances exist that would authorize or require the Board to take any action, or execute any work, under Part VIII of this Ordinance or under the building regulations;
- (c) for the purpose of taking any action, or executing any work, authorized or required by Part VIII of this Ordinance or the building regulations or by notice made under Part VIII of this Ordinance to be taken, or executed, by the Board; or
- (d) generally for the purpose of the performance by the Board of its functions under Part VIII of this Ordinance or under the building regulations.

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

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

Service of  
notices

**77.** Any notice or other document required or authorized to be given or served under this Ordinance may be served on or given to the person concerned—

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

Power to require  
information

**78.** (1) For the purpose of enabling the Director, the Minister, or the Board to make an order or serve a notice or other document under the provisions of this Ordinance, the Director may require the owner or the occupier of any premises, and any person who either directly or indirectly, receives rent in respect of any land or premises, to state in writing the nature of his interest therein, and the name and address of any other person known to him to have an interest therein, whether as a freeholder, mortgagee, lessee or otherwise.

(2) Any person who, having been required in pursuance of this section to give any such information, without reasonable cause fails to give that information within twenty-eight days of being so required, or such longer period as the Director may allow in any particular case, shall be guilty of an offence and liable on summary conviction to a fine of two hundred dollars.

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

Register of  
planning and  
associated  
decisions

**79.** (1) The Director shall maintain a Register of all—

- (a) applications for a grant of development permission;
- (b) decisions on such applications;

- (c) development permissions granted, and any conditions attached thereto;
- (d) enforcement notices;
- (e) public access notices or agreements under section 60;
- (f) any orders made under Part VI or Part VII;
- (g) applications for approval of plans under the building regulations;
- (h) decisions on such applications;
- (i) building regulation, approvals granted and any conditions thereto;
- (j) decisions on appeals against any decisions made or action taken under this Ordinance;
- (k) applications for the Minister's certificate of approval and the decisions thereon.

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

(3) The Register required by subsection (1) to be maintained may be kept in an electronic data storage and retrieval system whether by use of a computer or otherwise.

**80.** The Director shall notify the Registrar of Lands, giving full details of the parcels of land affected, of every—

Notification of  
decisions to  
Registrar of  
Lands

- (a) grant of development permission;
- (b) modification or revocation of a grant of development permission;
- (c) enforcement notice;
- (d) building preservation order or interim building preservation order;
- (e) plant preservation order or interim plant preservation order;
- (f) amenity order;
- (g) public access agreement or order, and the Registrar of Lands shall enter particulars thereof in the relevant register in respect of the land concerned.

**81.** Any reference in this Ordinance to any person having a claim for or a right to the payment of compensation, or to appeal

Death of person  
having claim or  
right

against any decision given under this Ordinance, upon the death of that person before the determination of the matter at issue, shall be construed as if such reference were a reference to that person's personal representatives.

Right of appeal

**82.** (1) Subject to the provisions of this Ordinance, an appeal shall lie to the Minister against any decision given by the Board under this Ordinance—

- (a) refusing an application for the grant of development permission, or for the modification or revocation of a grant of development permission;
- (b) imposing conditions on a grant of development permission;
- (c) requiring the completion of a development within a time limit;
- (d) issuing an enforcement notice or as to the terms thereof;
- (e) imposing a building preservation order or a plant preservation order:  
Provided that no appeal shall lie against an interim building preservation order or an interim plant preservation order;
- (f) issuing a notice requiring discontinuance of use or alteration or removal of buildings or works;
- (g) making an amenity order, on any of the grounds mentioned in subsection (2) of section 59.

(2) Subject to any provision to the contrary in this Ordinance any person desiring to appeal under subsection (1) shall within twenty-eight days of receiving notification of the decision desired to be appealed against, send to the Director notice of appeal, who shall forthwith on receipt thereof send a copy of such notice to the Minister and the Board.

(3) A notice given under subsection (2) shall set out—

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



and shall be accompanied by—

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

(4) On receipt of a copy of the notice given under subsection (2) the Minister shall—

- (a) reject it, without prejudice to any further such notice being given, if it appears not to comply with subsection (3);
- (b) if the appellant appears not to have any sufficient interest in the land to justify him appealing against the decision, reject the notice of appeal.

(5) Where a notice of appeal is not rejected under subsection (4), the Minister shall, in his discretion, decide whether the appeal shall be dealt with by public inquiry or by written representations and make an order accordingly, and shall, within twenty- eight days of receipt of the notice of appeal, notify the appellant and the Board accordingly.

(6) The Minister shall take the following matters into consideration before deciding whether the appeal may be dealt with by written representations or by public inquiry—

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

(7) Where the Minister decides that a public inquiry shall be held, he shall so order, and a copy of such order shall be sent to the appellant and to the Board and the order shall be published in the *Gazette*.

(8) On, or shortly after, making an order under subsection (7) the Minister acting in his discretion may by order or orders—

- (a) appoint one or more persons (hereinafter called “inspectors”) to conduct the public inquiry and to report to him in relation to the appeal and, if he appoints two or more inspectors the Minister shall direct one inspector to be responsible for the conduct of the inquiry generally, and to report to him generally and may direct the other or others to be responsible for the conduct of such parts of the inquiry as relate to matters specified in the order and to report to him specifically in relation to those matters, or that the other or others shall act as advisers to the inspector charged with the general conduct of the inquiry;
- (b) appoint the time and place at which the public inquiry shall commence;
- (c) fix the remuneration to be payable out of public funds to any person appointed as an inspector.

(9) Unless he directs that a public inquiry shall be held in relation to an appeal, the Minister shall direct that it shall be dealt with by written representations.

Procedure at  
public inquiries

**83.** (1) Subject to the provisions of this Ordinance and to any regulations made thereunder, the inspector shall determine the procedure to be followed at any public inquiry ordered under section 82 but if there is more than one inspector, the inspector charged pursuant to section 82 (8) with the general conduct of the inquiry shall determine it.

(2) Without prejudice to the generality of subsection (1)—

- (a) there may be given and received in evidence at a public inquiry any material which the inspector may consider relevant to the subject matter of the inquiry whether or not it would be admissible in a court of law;
- (b) evidence at a public inquiry may be given on oath or affirmation or as unsworn evidence or partly as sworn evidence and partly as unsworn evidence, as the inspector may think fit;
- (c) any person may be represented by another person acting with his authority and whether or not that other person is an Attorney.

(3) It shall be the prime function of a public inquiry to reach a conclusion as to the recommendations it makes to the

Minister to enable the Minister to decide upon the appeal and, subject as provided in this section, the inspector may in his absolute discretion adopt such procedure as appears to him most convenient to enable that function to be fulfilled without being bound to adopt such procedure as might be appropriate in a court.

**84.** (1) As soon as reasonably possible after the conclusion of any public inquiry ordered under section 82 the inspector shall submit his report thereon to the Minister.

Preparation and  
submission of  
reports

(2) Every report under this section shall contain—

- (a) a list of the names and addresses of all persons heard at the public inquiry and, where any such person was represented by another, the name and address of that representative;
- (b) a list of the names and addresses of all persons giving evidence at the public inquiry;
- (c) a summary of the evidence given by each person who gave evidence at the inquiry;
- (d) a list of all exhibits (including models, maps, plans, drawings, sketches, diagrams, photographs, petitions, and written statements) received in evidence at the inquiry;
- (e) the inspector's findings of fact in relation to any relevant matter;
- (f) any advice or comment that the inspector wishes to make;
- (g) the recommendations of the inspector to the Minister as to the manner in which the Minister should dispose of the appeal.

(3) Every report under this section shall be accompanied by all documents referred to in paragraph (d) of subsection (2).

**85.** (1) As soon as reasonably possible after receiving the report under section 84 the Minister acting in his discretion shall decide whether to allow or dismiss the appeal and may—

Decision and  
notification of  
appeal

- (a) allow the appeal in whole or in part;
- (b) if he allows the appeal in part, do so by varying the decision of the Board in any manner he thinks fit, but not so as to impose any condition or requirement the Board had no power under this Ordinance to impose when making the decision or taking the action appealed against;

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

(d) dismiss the appeal.

(2) The Minister shall not be bound to accept any recommendation contained in the report and may decide the appeal in whole or in part in a manner contrary to any such recommendation but if he does so he shall, in the notification of decision required by subsection (4), state his reasons for so doing.

(3) The Minister shall not, in deciding the appeal, consider any evidence not given in the public inquiry unless—

(a) that evidence is in writing; and

(b) he has given to the appellant or the Board (as the circumstances require) a full and sufficient opportunity of commenting in writing upon it and making representations to him in writing in relation to it.

(4) As soon as reasonably possible after receiving a report to which subsection (1) relates, the Minister shall send to the Director, written notification of his decision on the appeal. The Director shall on receipt thereof, forward a copy of the decision to the appellant and the Board.

Appeals by  
written  
representation

**86.** (1) Whenever the Minister has directed that an appeal to which section 82 relates shall be dealt with by written representations the Minister shall send a copy of the direction to the appellant and to the Board and each of them shall within six weeks thereafter send to the Minister and to the other of them such written representations as they wish to make in relation to the appeal (herein referred to as “written representations”).

(2) Within twenty-eight days of the receipt of the written representations of the other, or within the six week period specified in subsection (1), whichever is the later, the appellant and the Board shall send to the Minister and to the other of them in writing such further representations as they may wish to make arising out of the written representations of the other.

(3) The Minister acting in his discretion shall, following the expiration of the period specified in subsection (2), decide the appeal and in deciding shall have like powers to those under section 85 (1) (a), (b), (c) and (d).

(4) The Minister in deciding an appeal by written representations, shall not—

(a) receive any oral evidence; or

- (b) consider any representations in writing other than those provided for by subsections (1) and (2) unless he has given the appellant or the Board (as the circumstances require) a full and sufficient opportunity of answering them in writing.

**87.** (1) Save as provided in the Ordinance or this section no appeal shall lie against a decision or order of the Minister or the Board in a matter to which section 82 relates other than as provided for by sections 82 to 86 (inclusive) nor shall any such decision or order be reviewable in any manner by any court.

Appeals to a  
court

(2) Any person aggrieved by the decision of the Minister on an appeal under this Part may appeal by way of petition to the Governor. There shall be no right of audience on such appeal and the Governor's decision on such appeal shall be final.

(3) The applicant may apply to the Supreme Court for judicial review of a decision of the Minister (but not of the Board) by which he is aggrieved on, and only on a point of law and not in any manner upon the merits of the policies applied by the Minister in reaching the relevant decision.

(4) Any application for judicial review to which subsection (3) relates shall be filed in the Supreme Court within twenty-eight days of the notification of the Minister's decision.

**88.** (1) Any person who, without reasonable excuse—

Offences

- (a) carries out, or commences to carry out, any development contrary to section 28; or
- (b) fails to comply with any condition to which a grant of development permission or notice of passing plans under Part VIII, is subject; or
- (c) fails to comply with the requirements of a notice issued under section 37 or 78; or
- (d) fails to comply with the requirements of an enforcement notice issued under section 45; or
- (e) fails to comply with the requirement of—
  - (i) a building preservation order made under section 54 or an interim building preservation order made under section 55;
  - (ii) a plant preservation order, or an interim plant preservation order, made under section 56;
  - (iii) an amenity order made under section 58; or
- (f) fails to comply with any requirement of Part VIII or of building regulations made thereunder; or

- (g) wilfully gives false information, relating to any matter in respect of which he is required to give information under this Ordinance; or
- (h) obstructs or hinders any person in the exercise of any right conferred under an access order; or
- (i) obstructs any person in the exercise of any powers or the performance of any duties under this Ordinance; or
- (j) fails to comply with any regulations made with respect to the control of any activities in, or the management of, any conservation area,

shall be guilty of an offence and liable—

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

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

(3) Proceedings in respect of an offence alleged to have been committed under this Ordinance may be brought, with the approval of the Minister, by the Director:

Provided that if it is considered that the gravity of the offence requires that it be tried on indictment, proceedings shall only be brought by or with the consent of the Attorney General.

#### Regulations

**89.** (1) The Governor may make regulations for carrying into effect the provisions of this Ordinance.

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

- (a) the form and scope of development plans;

- (b) the procedures to be followed and the forms to be used in connection with—
  - (i) an application for a grant of development permission;
  - (ii) an enforcement notice;
  - (iii) the modification or revocation of a grant of development permission;
  - (iv) a claim for compensation;
- (c) development which may be permitted under subsection (2) of section 28, without the requirement of a prior grant of development permission;
- (d) the management and protection of conservation areas and the preservation of any form of marine or other wildlife therein;
- (e) the form of an impact statement;
- (f) access to land for recreational purposes;
- (g) fees payable for the purposes of the Ordinance;
- (h) the procedures of the Board;
- (i) the qualifications required of persons signing forms, plans and drawings on behalf of any applicant for development permission;
- (j) the control of advertisements;
- (k) the preservation of buildings or plants;
- (l) the form of the register to be maintained under section 79.

**90.** This Ordinance shall bind the Crown and the Government.

Application to  
the Crown and  
Government