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CHAPTER 283

TOWN AND COUNTRY PLANNING

An Act to make provision for the appointment of planning authorities, for the establishment of a Town and Country Planning Tribunal, for the preparation, approval and revocation of development plans, for the control of development and subdivision of land, for the assessment and payment of compensation in respect of planning decisions, for the preparation, approval and revocation or modification of regional plans; and for matters connected with and incidental to the foregoing.

[16th November, 1962]

32 of 1961
25 of 1962
28 of 1964
16 of 1965
28 of 1965
69 of 1965
46 of 1969
47 of 1970
53 of 1970
21 of 1997
Government Notice
232 of 1964
Statutory
Instrument
65 of 1965
Acts No
13 of 1994
29 of 1995

PART I

PRELIMINARY

1. (1) This Act may be cited as the Town and Country Planning (Amendment) Act, 1997, and shall be read as one with the Town and Country Planning Act, in this referred to as the principal Act.

Short title and commencement

Cap. 283

(2) This Act shall come into operation on such a date as the Minister may, by statutory instrument, appoint.

2. In this Act, 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 in part for the purpose of advertisement or announcement and, without prejudice to the foregoing

definition, includes any hoarding or similar structure used or adapted for use for the display of advertisement, and references to the display of advertisements shall be construed accordingly;

"agriculture" means the use of land exclusively or mainly for agriculture, whether as arable, pasture, ranching, grazing, orchard or seed growing, or for fish farming, forestry or for the breeding and keeping of livestock including any creature kept for the production of food, wool, silk, skins or fur, and includes buildings necessary therefor and uses ancillary thereto;

"appointed day" means the 16th November, 1962;

"approved development plan" means a development plan and any amendment or modification thereof approved by the Minister under section *seventeen*;

"building" includes any structure or erection and any part of a building so defined, but does not include plant or machinery comprised in a building;

"building line" means a line specifying the minimum distance between the boundary of a stand, lot, plot or road, and any building or proposed building on the stand, lot or plot;

"class", in relation to development, means the group of land or building uses to which the development is deemed to belong by virtue of any regulation made under section *fifty-three*;

"Customary Area" has the meaning assigned thereto by section *two* of the Lands Act; Cap. 184

"development" has the meaning assigned to it by section *twenty-two* and "develop" has a corresponding meaning;

"development order" has the meaning assigned thereto by section *twenty-three*;

"Director" means the Director of Physical Planning and Housing who is a public officer in charge of town and country planning;

"Environmental Council of Zambia" means the

Environmental Council of Zambia established under section *three* of the Environmental Protection and Pollution Control Act; Cap. 204

"erection", in relation to buildings, includes extension, alteration and re-erection;

"former Act" means the Town Planning Act, Chapter 123 of the 1959 Edition of the Laws, section *eighty* of the Municipal Corporations Act, Chapter 119 of the 1962 Edition of the Laws, and section *twenty-seven A* of the Townships Act, Chapter 120 of the 1962 Edition of the Laws, as the case may be;

"functions" includes power and duties;

"Government purpose" means a purpose of the Government of Zambia;

"highway authority" means a highway authority as defined in the Roads and Road Traffic Act; Cap. 464

"holding" means any area of land which is shown as a farm, stand, lot or plot on a general plan or other plan approved under the Land Survey Act, and includes any building erected thereon; Cap. 188

"land" includes any building erected thereon; and also includes land covered by water and any right in or over land, excepting mineral rights;

"local authority" means a City Council, a municipal council, township council or district council as defined in the Local Government Act; Cap. 281

"local plan" means the plan prepared by a planning authority under the direction of the Director in accordance with section *sixteen A*;

"mining" means any operation lawfully carried out under the provisions of the Mines and Minerals Act; Cap. 213

"Natural Resources Board" means the Natural Resources Advisory Board established under the provisions of section *three* of the Natural Resources Conservation Act;

"owner" means-

(a) the person registered as the proprietor of any land except where

that person has leased or subleased the land to another person for a period of fourteen years or more;

(b) the person in whom the lease of any land is vested under a registered deed except where that person has subleased the land to another person for a period of fourteen years or more;

(c) the lessee of State Land held under a lease expressed to be for a period of fourteen years or more;

(d) the lessee of land held under any other lease expressed to be for a period of fourteen years or more; and

(e) the allottee of land held under a provisional title and in process of alienation by the President;

and includes the liquidator of any company which is an owner as aforesaid, and the representative recognised by law of any owner as aforesaid who has died, become insolvent, assigned his estate for the benefit of his creditors, or is under any legal disability;

"planning authority" means the local or other authority appointed by or under the provisions of section *five* and shall, for the purposes of Parts V and VI, include the Environmental Council of Zambia;

"prescribed" means prescribed by regulation made under the provisions of this Act;

"public notice" means a notice published once in the *Gazette* and either in each of two consecutive issues of a newspaper circulating in the area to which the notice relates or in such other manner as the Minister may direct;

"public purpose" has the meaning assigned thereto in the Public Lands Acquisition Act; Cap. 189

"structure plan" means the plan prepared by a planning authority under the direction of the Minister in accordance with section *sixteen*; and

"statutory undertaker" means Zambia Railways, and any body responsible under any written law for the supply of water or electricity within Zambia, and *any other body which the Minister may be

statutory notice specify;

* Any highway authority and any body responsible under any written law for the construction or maintenance of bridges, sewers or sewage disposal works, water courses or drainage works within Zambia, and any railway company as defined in the Regulation of Railways Act, Chapter 755 of the Revised Edition, specified by G.N. No. 358 of 1962.

"subdivision" has the meaning assigned to it by section *twenty-two* and "subdivide" has a corresponding meaning;

"subdivision order" has the meaning assigned thereto by section *twenty-three*;

"township authority" means a township council;

"Tribunal" means the Town and Country Planning Tribunal established under the provisions of section *six*.

(As amended by No. 69 of 1965, S.I. No. 65 of 1965, No. 53 of 1970 and No. 21 of 1997)

*Any highway authority and any body responsible under any written law for the construction or maintenance of bridges, sewers or sewage disposal works, water courses or drainage works within Zambia, and any railway company as defined in the Regulation of Railways Act, Chapter 755 of the Revised Edition, specified by G.N. No. 358 of 1962.

3. (1) Subject to the provisions of section *four* and save where otherwise expressly provided to the contrary, the Republic shall not be bound by the provisions of this Act.

Application

(2) The provisions of this Act, other than those contained in Part VIII, shall not apply to customary areas as defined in the Lands Act:

Cap. 184

Provided that the President may by statutory order apply all or any of the said provisions to any customary area.

(3) (Repealed by No. 47 of 1970)

(4) Notwithstanding the provisions of any other law, this Act shall apply in all matters relating to land zoning and development.

Cap. 213

(5) The provisions of this Act, other than those contained in Part VIII, shall not apply to the area of any mine township.

(As amended by No. 28 of 1964, S.I. No. 65 of 1965, No. 46 of 1969, No. 47 of 1970 and No. 21 of 1997)

4. (1) In any area which is subject to an approved structure plan or local plan, the Republic shall not carry out any development or subdivision of land without prior consultation with the planning authority for that area.

Disagreement
between
Republic and
planning
authority

(2) Where, after consultation as provided in subsection (1), the Republic and the planning authority are not in agreement concerning the carrying out of any development or subdivision of land, the planning authority may, within twenty-eight days of the completion of the said consultation, make written submissions to the Minister against the proposed development or subdivision of land.

(3) As soon as may be after the receipt of the aforesaid written submissions, the Minister shall refer them, together with any written submissions on behalf of the Republic, to the Tribunal.

(4) The Tribunal shall consider the written submissions referred to it and shall give the Minister its opinion concerning the proposed development or subdivision of land.

(5) The Tribunal may, for the purpose of giving its opinion, call on the Republic or the planning authority to provide it with such information as it may deem necessary for the purpose of reaching an opinion.

(6) As soon as may be after the Tribunal has given its opinion to him, the Minister shall notify the planning authority of his decision in relation to the written submissions made to him.

(7) In reaching his decision the Minister shall not be bound by the opinion of the Tribunal:

Provided that, where the Minister does not accept the opinion of the Tribunal, he shall notify the planning authority accordingly and shall advise the planning authority as to his reason for not accepting the opinion of the Tribunal.

(8) The decision of the Minister on any written submissions made to him shall be final and shall not be challenged in any proceedings whatsoever.

(No. 28 of 1964 as amended by S.I. No. 65 of 1965 amended by Act No. 21 1997)

5. (1) The Minister shall designate the Director as the strategic planning authority to-

- (a) exercise such other functions as the Minister may delegate to the Director under section *twenty-four*; or
- (b) exercise such other functions as may be prescribed by the Minister;

(2) The local authorities set out in the First Schedule are hereby appointed as the planning authorities for the respective areas described in that Schedule.

Appointment of
planning
authorities

(3) The Minister may, from time to time by statutory notice, appoint a planning authority for both or either of the following purposes and may specify the constitution of any such planning authority:

(a) to prepare a structure plan or local plan ordered under the provisions of section *fifteen*;

(b) to exercise such functions as may be delegated to it under the provisions of section *twenty-four*.

(4) The Minister may, by statutory notice, change the constitution in whole or in part of any planning authority appointed under the provisions of subsection (2):

Provided that no change shall be made before the expiry of twenty-eight days' notice of the proposed change has been given by the Minister to the planning authority having jurisdiction at the time of such notice, and such planning authority may within such period of twenty-eight days request an inquiry under the provisions of section *forty-nine*, in which case no change shall be made until the inquiry has been held, and its decision, which shall be binding on the Minister, made known by public notice.

(5) The Minister may prescribe the procedure to be followed by the planning authorities appointed under the provisions of subsection (2).

(As amended by No. 25 of 1962 and No. 21 of 1997)

PART II

TOWN AND COUNTRY PLANNING TRIBUNAL

6. There is hereby established a Tribunal to be known as the Town and Country Planning Tribunal which shall have the jurisdiction, power and authority conferred upon it by this Act and by any regulation made hereunder. Establishment of Tribunal

7. (1) The Judicial Service Commission shall appoint a president of the Tribunal who shall hold office for such period and subject to such conditions as may be agreed. Constitution of Tribunal

(2) The president of the Tribunal shall be a barrister or solicitor entitled to practise in Zambia, or a person who holds or has held judicial office.

(3) The Tribunal shall consist of the president or the vice-president of the Tribunal and such other members, not less than two in number, as may be appointed by the Judicial Service Commission from time to time to sit with the president or the vice-president as members of the Tribunal for the determination of any matter before the Tribunal:

Provided that one of the members of the Tribunal so appointed shall be a

Chartered Planner of the Town Planning Institute of the United Kingdom or hold such similar qualification as the Minister may approve.

(4) If the president or the vice-president of the Tribunal considers that any matter which has been brought before the Tribunal is likely to involve professional or special considerations, other than considerations pertaining to town and country planning, he may, with the agreement of the Minister, appoint a suitable person to advise the Tribunal on the said professional or special considerations.

(5) The Minister shall appoint a secretary to the Tribunal.

(As amended by G.N. No. 232 of 1964, No. 16 of 1965 and S.I. No. 65 of 1965)

8. (1) The Judicial Service Commission may appoint a vice-president of the Tribunal who shall hold office for such period and subject to such conditions as may be agreed. Appointment of vice-president

(2) The vice-president of the Tribunal shall be a barrister or solicitor entitled to practise in Zambia, or a person who holds or has held judicial office.

(3) The president of the Tribunal or, if the president is unable to do so because of illness or other cause, the Minister, may call upon the vice-president to exercise and perform such functions of the president for such period as the president or the Minister may specify, and thereupon the vice-president shall, and the president shall not, exercise and perform such functions for such period.

(No. 16 of 1965)

9. The Minister may prescribe fees to be paid to the president, the vice-president and members of the Tribunal and to any advisers appointed by the president or the vice-president under this Part, who are not officers of the public service, and the president, the vice-president, members or advisers shall be paid in respect of the expenses incurred by them in travelling and subsistence when discharging their duties such sums as may be prescribed. Remuneration of president, vice-president, members and advisers

(No. 16 of 1965)

10. A record of the proceedings of the Tribunal shall be kept and filed in the office of the secretary to the Tribunal and may be inspected and copies thereof obtained upon like conditions and upon payment of the same fees as if they were civil records of a subordinate court. Record of proceedings

11. (1) Without prejudice to the provisions of section *twenty-nine* and Part VI- Appeals to Tribunal

(a) any person whose interest in any land may be affected by any decision of an appeal by the Tribunal shall have the right to appear and be heard on the hearing of any such appeal;

(b) the Tribunal shall hear and determine the matter of the appeal and may make such order therein in addition to, or in substitution for, the matter appealed against as it thinks fit, including the award of costs to any party to an appeal, subject to the provisions of paragraph (c);

(c) if the Tribunal, after considering any matter brought before it under this section, is of the opinion that the appeal should be allowed, it shall, before making any order under the provisions of paragraph (b), afford the Minister or planning authority an opportunity of making representations as to any conditions or requirements which he or it considers ought to be included in the order and shall afford the appellant an opportunity of replying thereto, and thereafter the Tribunal may make such order in the matter as it thinks fit, and any such order shall be binding on the Minister, planning authority and the appellant:

Provided that the Tribunal shall not make any order which would operate in conflict with any provision of an approved structure plan or local plan;

(d) all matters requiring to be determined by the Tribunal shall be decided by a majority of votes and such decision shall be the determination of the Tribunal:

Provided that-

(i) any decision on a matter of law or on whether a matter for determination is a matter of fact or a matter of law shall be made solely by the president or the vice-president;

(ii) the president, the vice-president and each member shall have and

shall exercise one vote, and no adviser to the Tribunal shall be entitled to vote on any matter before the Tribunal.

(2) Where any person who has appealed to the Tribunal under the provisions of this Act is dissatisfied with the decision of the Tribunal, he may, within twenty-eight days of such decision, appeal to the High Court against such decision.

(As amended by No. 25 of 1962, No. 28 of 1964, No. 16 of 1965 and No. 21 of 1997)

12. (1) The Tribunal may by notice in writing require any person, subject to the payment or tender of reasonable expenses of attendance, to attend as a witness and give evidence or to produce any documents in his possession or power which relate to any matter in question on an appeal under this Act, and if any person without reasonable excuse fails to comply with any of the provisions of such notice, he shall be guilty of an offence and may be fined summarily by the president or the vice-president of the Tribunal an amount not exceeding one thousand five hundred penalty units.

Witnesses and evidence

(2) The Tribunal may take evidence on oath and for that purpose the president or the vice-president shall have the power to administer oaths, and may make such other investigations as it may deem necessary in assisting it to come to a decision regarding any matter before it.

(As amended by No. 16 of 1965 and Act No. 13 of 1994)

13. No action shall be brought against the president, the vice-president or members of the Tribunal or advisers to the Tribunal in respect of any act done or order made by them in good faith in the execution or supposed execution of the powers and duties conferred upon them under this Act or any regulation made hereunder.

Protection of president, vice-president, members and advisers

(As amended by No. 16 of 1965)

14. The Minister may, by statutory instrument, make regulations prescribing-

Regulations

(a) the rules of procedure to be adopted by the Tribunal;

(b) the manner in which costs and charges imposed by the Tribunal may be recovered.

PART III

STRUCTURE PLANS OR LOCAL PLANS

15. (1) The Minister may by statutory notice-

Order for
preparation of
structure plans
or local plans

(a) order a development plan to be prepared for any area specified in such notice and may stipulate after consultation with the planning authority the time to be granted to the planning authority for the preparation and submission of the development plan to him, and may extend such time;

(b) change the area of a development plan by additions or exclusions;

(c) change the area of an approved development plan by exclusions:

Provided that the order to prepare a development plan or a notice changing the area of a development plan or an approved development plan shall not become operative until forty-five days after the date of publication of the said order or notice, and any interested person may, within twenty-one days after the date of the said publication, object to the Minister to the preparation of such a plan or such change in area and, where any person does so object, the Minister may, prior to the expiry of the said forty-five days, order a public inquiry thereinto under section *forty-nine*, in which case the said order or notice shall not become operative until the Minister by statutory notice so declares.

(2) The Minister shall cause an order made under subsection (1) to be published in three consecutive issues of a newspaper circulating in the area to which the order relates.

(3) Whenever the boundaries of the area of a structure plan or local are extended, a structure plan or local plan shall be prepared for such extended area within the time to be specified by the Minister or within such longer period as he may agree.

(4) The Minister may, by statutory instrument, order that in the preparation of a structure plan, approved local plans may be considered in that structure plan.

(5) A structure plan prepared under section (4)-

(a) may maintain the contents of the approved local plans; and

(b) shall be submitted by the planning authority to the Minister for approval.

(As amended by Act No. 21 of 1997)

16. (1) A planning authority shall submit to the Minister for approval a structure plan structure plan comprising:

(a) a survey of the planning area which shall include-

(i) the principal and economic characteristics of the area of planning authority including the principal characteristics of any neighbouring areas;

(ii) the size, composition and distribution of the population of the area;

(iii) the communication, transport system and traffic of the area or neighbouring areas;

(iv) the effect of any changes which may affect the development of the area or the planning of such development;

(v) any changes anticipated during the period of the plan; and

(vi) such other matters as maybe prescribed by the Minister.;

(b) a written submission-

(i) stating the policy and general proposals of the planning authority in respect of the development and other use of the plan in that area including measures for the management of traffic;

(ii) stating the relationship of the proposals to general proposals for the development and use of land in neighbouring areas which affect that area; and

(iii) containing such other matters as amy be prescribed by the Minister by statutory instrument.; and

(c) such diagrams, illustrations and descriptive matters as the local authority may consider appropriate to explain or illustrate the proposals in the plan.

(2) In formulating its policy and general proposals under sub-paragraph (i) of paragraph (b) of subsection (1), the planning authority shall ensure that the policy and proposals are justified by the results of the survey in paragraph (a) of subsection (1) and that the policy and proposals include-

(a) current policies with respect to economic planning and development of the region;

(b) the resources which will be available for carrying out the proposals of the structure plan; and

(c) such other matters as the Minister may direct.

(3) A planning authority shall, in a proposal in respect of land in its area, indicate areas in whole or in part which-

(a) it has designated for development, redevelopment or improvement; and

(b) have been proposed to be designated as a Statutory and Improvement Area under the Housing (Statutory and Improvement Areas) Act.

(4) A planning authority shall before submitting a structure plan to the Minister under subsection (1)-

Cap. 194

(a) publicise in the *Gazette* and other public media the report of the survey conducted under subsection (i);

(b) make a copy available for inspection by the general public and state a period of time within which representations in respect of the structure plan may be made to such planning authority which shall not be less than twenty-eight days;

(c) afford interested persons an opportunity to make representations on the proposals; and

(d) consider any representations made to it under paragraph (b).

16A. (1) The director shall direct a planning authority to prepare a local plan where that area is designated under subsection (3) of section *sixteen* as an area for development in a structure plan which has been approved by the Minister.

(2) A planning authority that is directed by the director to prepare a local plan shall-

- (a) prepare a survey of planning area;
 - (b) publicise the report of the survey conducted under paragraph (a) in the *Gazette* and other public media;
 - (c) make a copy of the proposed local plan available for inspection by the general public and state a period of time within which representations in respect fo the local plan may be nade to such planning authority which shall not be less than twenty-eight days;
 - (d) afford interested persons an opportunity to make representations on the proposals; and
 - (e) consider any representations made to it under paragraph (c).
- (3) Where the local authority approves the detailed plans of a private developer under subsection (4) they shall be included in the local plan for submission to the Director.
- (4) A private developer may prepare detailed plans for any part of the area designed fro development under subsection (1) and the plan shall be submitted to the planning authority for approval.
- (5) A planning authority shall by resolution adopt a local plan prepared under this section and submit it to the Director.
- (6) The Minister-
- (a) shall before approving a structure plan consider any representations submitted by any person in respect of the structure plan; and
 - (b) may cause a public inquiry to be conducted by the Tribunal in respect fo the representations.
- (7) The director-
- (a) shall before approving a local plan consider any representations submitted by any person in respect of the local plan; and
 - (b) may cause a public inquiry to be conducted by the Tribunal in respect of the representations.
- (8) Part shall apply for the purposes of considering representations in respect of a local plan or structure plan.

(As amended by S.I. No. 65 of 1965 and repealed and replaced by Act No. 21 of 1997)

17. (1) The Minister or Director may after considering a structure plan or local plan submitted under sections *sixteen* and *sixteen A*, as the case may be - Approval of structure plan or local plan

(a) approve it in whole, or in part with or without modifications; or

(b) reject it.

(2) The Director may on considering a local plan refuse to approve such local plan if-

(a) the Director is not satisfied that the objectives of the local plan have been achieved; or

(b) it does not conform to the structure plan as approved by the Minister.

(As repealed and replaced by Act No. 21 of 1997)

18. (1) A planning authority may at any time after the approval of a structure plan or local plan in respect of any area, on its own initiative or upon directives from Minister or Director, as the case may be - Alteration of structure plan or local plan

(a) within the period prescribed as may be specified in the direction from the Minister or Director, as the case may be;

submit to the Minister or Director for approval, proposals for the alteration of an approved structure plan or local plan.

(2) The planning authority shall furnish to the Minister or Director, as the case may be, a report comprising such modifications to the structure plan or local plan as may be necessary.

(As repealed and replaced by Act. No. 21 of 1997)

PART IV

PROCEDURE FOR THE PREPARATION AND

SUBMISSION OF STRUCTURE PLANS OR LOCAL PLANS AND THEIR MODIFICATION AND EXTENSION

19. (1) A structure plan or local plan shall be prepared and certified in duplicate by or on behalf of the planning authority, and one certified copy of the structure plan or local plan shall be submitted to the Minister or Director.

Preparation and submission of structure plans or local plans and objection thereto

(2) When a structure plan or local plan is submitted to the Minister or Director, the planning authority shall give public notice that the structure plan or local plan is open for inspection at such place or places as shall be notified as aforesaid.

(3) The notice referred to in subsection (2) shall call upon any interested person who desires to make any representation in connection with or objection to the structure plan or local plan to do so to the Minister or Director within such period, not being less than twenty-eight days after the date of the first publication of the notice, as shall be specified in the notice.

(4) A copy of any representation in connection with or objection to a structure plan or local plan shall be lodged with the planning authority by the person making such representation or objection within the time specified in the notice under the provision of subsection (3).

(5) A planning authority may, if it thinks fit, agree with any person making a representation in connection with or objection to a structure plan or local plan that such representation or objection should be met or withdrawn, in which case it shall so notify the Minister or Director and the person making the representation or objection.

(As amended by Act No. 21 of 1997)

20. (1) Where a structure plan or local plan is submitted to the Minister or Director, he shall take into consideration such structure plan or local plan and any representation or objection received by him in accordance with the provisions of section *nineteen*, and shall decide whether or not

Consideration of approval by the Minister or Director

to cause a public inquiry to be held under the provisions of section *forty-nine* into all or any of the said representations or objections at which any interested person may be heard:

Provided that if the Minister or Director has been notified that the planning authority wishes to meet all or any of the representations or objections so lodged, then he shall take no action under this section for a period of ninety days from the closing date for the lodging of objections, and the planning authority shall inform the Minister or Director of its proposals for dealing with the said representations or objections within the said period of ninety days.

(2) If the Minister or Director decides not to cause a public inquiry to be held, he shall, before approving the structure plan or local plan, afford to the planning authority and to any person who has duly made a representation or objection to the planning authority and who has not withdrawn such representation or objection, and such other persons as he may deem fit, an opportunity of appearing before and being heard by a person appointed by him for that purpose.

21. The Minister or Director shall notify the planning authority of his approval, with or without modification, or his rejection of the structure plan or local plan and, on receipt of such notice, the planning authority shall forthwith give public notice of the approval or rejection, and shall serve notice of the approval or rejection on any person by whom a representation or objection was duly lodged, and on such other persons, if any, as may be required by a general or specific direction given by the Minister or Director and, in the event of approval, shall place the approved structure plan or local plan on permanent public deposit during the normal hours of official business and shall cause the descriptive matter of the approved structure plan or local plan, if any, to be published for sale to the public.

Notice of approval or rejection by the Minister or Director

(As amended by Act No. 21 of 1997)

PART V PERMISSION REQUIRED FOR DEVELOPMENT AND SUBDIVISION OF LAND

22. (1) Subject to the provisions of this section and to the following provisions of this Act, permission shall be required under this Part for any development or subdivision of land that is carried out after the

Permission required for development

appointed day.

and subdivision

(2) The provisions of this Part, in so far as they relate to development, shall apply only-

(a) in areas in respect of which there is an order, made under the provisions of this Act, to prepare a structure plan or local plan; and

(b) in areas subject to an approved structure plan or local plan: and

(c) in such areas as are within a distance of twenty miles from the boundaries of any area mentioned in paragraph (a) or (b); and

(d) in such other areas as may be specified by the Minister by statutory notice.

(3) In this Act, "subdivision", in relation to land, means the division of any holding of land into two or more parts, whether the subdivision is effected for purposes of conveyance, transfer, partition, sale, gift, lease, mortgage or any other purpose, and "subdivide" has a corresponding meaning.

(4) In this Act, "development" means the carrying out of any building, rebuilding or other works or operations on or under land, or the making of any material changes in the use of land or buildings but shall not include-

(a) changes of use of land or buildings where the existing and the proposed uses both fall within the same group of land or building uses which may be prescribed;

(b) the carrying out of works for the rebuilding, maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially affect the external appearance of the building;

(c) the construction of roads in an area not subject to a structure plan or local plan or approved structure plan or local plan, in respect of which the Director of Roads is the highway authority;

(d) the carrying out by a highway authority of any works required for the maintenance or improvement of a road, being works carried out on land within the boundaries of a road or road reserve;

(e) the carrying out by any local authority or any statutory undertaker of any works for the purpose of constructing, inspecting, repairing or renewing any sewers, drains, pipes, cables, rails or such other apparatus as may be prescribed;

(f) the construction or use other than for human habitation of any building or the use of any land within the curtilage of a dwelling-house for any purpose incidental to the enjoyment of the dwelling-house as such;

(g) the use of any land for the purpose of mining or agriculture, including the erection and use of buildings for such mining or agricultural purposes, but excluding the siting of buildings within nine hundred and fifteen metres from the centre line of any road or proposed road;

(h) the erection of temporary buildings required in connection with any development for which planning consent has been given, for a period not exceeding twelve months or for such longer period as the Minister or the planning authority may permit;

(i) the construction and maintenance of roadways, paths, standings and similar paved areas within a holding, or within any public open space;

(j) development outside a development plan area in any of the following, namely, forest reserves protected forest areas and game reserves, but excluding the siting of buildings within nine hundred and fifteen metres from the centre line of any road or proposed road;

(k) any other operation which may be prescribed.

(As amended by Act No. 21 of 1997)

23. (1) The Minister shall by order provide for the grant of permission for the development and subdivision of land under this Part, and such permission may be granted- Development or subdivision orders

(a) in the case of any development or subdivision specified in any such order, or in the case of development of any class so specified, by that order itself;

(b) in any other case, by the Minister on an application in that behalf made to him in accordance with the provisions of the order.

(2) Subject to subsection (4), the permission granted by any development or subdivision order may be granted either unconditionally or subject to such conditions or limitations as may be specified in such order.

(3) Without restricting the generality of subsection (2), a development order that grants permission for any development may-

(a) where permission is thereby granted for the erection, extension or alteration of any buildings, require the approval of the Minister to be obtained with respect to the external design, appearance or materials used;

(b) where permission is thereby granted for development of any specified class, enable the Minister to direct that the permission shall not apply either in relation to development in any particular area or in relation to any particular development.

(4) The Minister may, in any subdivision order in respect of land situated outside the area of a structure plan or local plan or approved structure plan or local plan, grant permission-

(a) for residential purposes or purposes ancillary thereto:

Provided that-

(i) no subdivision shall be less than twenty-five acres in extent;

(ii) a condition that there shall be no further subdivision of the subdivision is stipulated by him in the approval;

(iii) the land to be subdivided is not considered by the Environmental council of Zambia to be of high agricultural value;

(iv) no installation of public services at the expense of the Government becomes necessary as a result of the subdivision or

subdivisions;

(b) for other purposes provided that he considers that approval will be in the best interests of Zambia.

(As amended by S.I. No. 65 of 1965 and Act No. 21 of 1997)

24. (1) The Minister may by instrument in writing and subject to such conditions, directions, reservations and restrictions as he thinks fit, delegate to any planning authority his functions under subsections (1) and (2) of section *twenty-five* relating to the grant or refusal of permission to develop or subdivide land: Delegation to planning authorities

Provided that-

(i) the said functions of the Minister shall be delegated to the appropriate planning authority set out in the First Schedule when any development or subdivision order is made affecting any of the areas set out in the First Schedule;

(ii) in respect of subdivision for agricultural purposes of agricultural land situated outside areas subject to a structure plan or local plan or approved structure plan or local plan, the Minister shall, when any subdivision order is made affecting any area, delegate the said functions to the Environmental Council of Zambia in respect of that area.

(2) Without restricting the generality of subsection (1), the Minister may make provision in any instrument of delegation for transferring to any planning authority to whom functions are delegated in accordance with this section any liability to pay compensation under this Act in respect of anything done by that planning authority in the exercise of functions delegated to it as aforesaid:

Provided that when the Minister delegates under subsection (1) any of his functions to any of the planning authorities referred to in the First Schedule, he shall make provision in the instrument of delegation for transferring to such planning authority the said liability to pay compensation.

(As amended by Act No. 21 of 1997)

25. (1) Subject to the provisions of this section, where application is made to the Minister or planning authority to whom functions have been delegated under section *twenty-four* for permission to develop or subdivide land, the Minister or planning authority may grant permission either unconditionally or subject to such conditions as he thinks fit, or may refuse permission and, in dealing with any such application, the Minister or said planning authority shall have regard to the provisions of the structure plan or local plan or approved structure plan or local plan, if any, so far as material thereto, and to any other material considerations:

Application for
planning
permission

Provided that the granting of any such permission shall, in respect of the subdivision of land, other than the subdivision for agricultural purposes of agricultural land, situated outside areas subject to a structure plan or local plan or approved structure plan or local plan, be subject to the provisions of subsection (4) of section *twenty-three* which shall apply *mutatis mutandis* to any such permission.

(2) Without restricting the generality of subsection (1), conditions may be imposed on the grant of permission to develop or subdivide land thereunder-

(a) for regulating the development, subdivision or use of any land or requiring the carrying out of works on any such land, so far as appears to the Minister or planning authority to be expedient for the purpose of or in connection with the development or subdivision authorised by the permission;

(b) for requiring the removal of any buildings or works authorised by the permission, or the discontinuance of any use of land so authorised, at the expiration of a specified period, and the carrying out of any works required for the reinstatement of land at the expiration of that period.

(3) Provision may be made by a development or subdivision order for regulating the manner in which applications for permission to develop or subdivide land are to be made to, and dealt with by the Minister or planning authority and in particular-

(a) for requiring the planning authority, before granting or refusing permission for any development or subdivision, to consult with such authorities or persons as may be specified by the order or by directions

given by the Minister thereunder;

(b) for requiring the planning authority to give any applicant for permission, within such time as may be specified by the order, such notice as may be so specified as to the manner in which his application has been dealt with;

(c) for requiring the planning authority to furnish to the Minister, and to such other persons as may be specified by or under the order, such information as may be so specified with respect to applications for permission made to it, including information as to the manner in which any such application has been dealt with.

(4) The Minister and planning authority, as the case may be, shall keep, in such manner as may be specified by the appropriate development order, a register containing such information as may be specified in the said development order with respect to applications for permission made to the Minister or planning authority, including information as to the manner in which such applications have been dealt with; and every such register shall be made available for inspection by the public during normal hours of official business at such place as the Minister may direct.

(As amended by Act No. 21 of 1997)

26. (1) The Minister may give directions to any planning authority to whom functions have been delegated under section *twenty-four* that any application made to that authority for permission to develop or subdivide land, or all such applications of any class specified in the directions, shall be referred to the Minister instead of being dealt with by the planning authority, and any such application shall be so referred accordingly.

Additional powers of Minister to give directions to any planning authority

(2) Where an application for permission to develop or subdivide land is referred to the Minister under this section, subsections (1) and (2) of section *twenty-five* shall apply, subject to any necessary modifications in relation to the determination of the application by the Minister as they apply in relation to the determination of such an application by the planning authority.

(3) If the Minister, after consultation with a planning authority to whom

functions have been delegated under section *twenty-four*, considers that the said planning authority has granted permission to any person to develop or subdivide land in a manner which is contrary to the provisions of an approved structure plan or local plan, he may, not later than two years from the date of the granting of such permission, direct the said planning authority to cancel such permission and the planning authority so directed shall comply with the directions so given.

(4) Where any permission is cancelled under the provisions of subsection (3), the person to whom permission was granted shall be entitled to claim compensation from the planning authority in respect of any expenditure incurred by him in carrying out work that is rendered abortive by the cancellation of such permission and in respect of any other loss or damage which is directly attributable to the cancellation of such permission, and the planning authority shall pay compensation to such person in respect of any such expenditure, loss or damage.

(As amended by Act No. 21 of 1997)

27. (1) The power to grant permission to develop or subdivide land under this Part shall include power to grant permission for the retention on land of any buildings or works constructed or carried out thereon before the date of the application for such permission, or for the continuance of any use of land instituted before that date (whether without permission granted under this Part or in accordance with permission so granted for a limited period only); and reference in this Part to permission to develop or subdivide land or to carry out any development of land, and to applications for such permission, shall be construed accordingly.

Supplementary provisions re grants of planning permission

(2) Any such permission as is mentioned in subsection (1) may be granted so as to take effect from the date on which the buildings or works were constructed or carried out, or the use was instituted, or from the expiration of the said period, as the case may be.

(3) Where permission is granted under this Part for the erection of a building, the grant of permission shall specify the purposes for which the building may be used.

(4) Where permission to develop land is granted under this Part for a limited period only, nothing in this Part shall be construed as requiring

permission to be obtained thereunder for the resumption, at the expiration of that period, of the use of the land for the purpose for which it was normally used before the permission was granted.

(5) In determining for the purposes of subsection (4) the purposes for which land was normally used before the grant of permission, no account shall be taken of any use of the land begun in contravention of the provisions of this Part.

28. (1) For the avoidance of doubt it is hereby declared that, on receipt of an application for subdivision made under the provisions of section *twenty-five*, the Minister or planning authority to whom functions have been delegated under section *twenty-four* may-

Supplementary provisions re grant of permission to subdivide

- (a) demand further information from the applicant; or
- (b) demand that public notice inviting objection to the application within a specified time and in a prescribed form shall be given at the cost of the applicant; or
- (c) approve the application subject to such written conditions as is deemed fit to impose in accordance with the Third Schedule, and any person developing the land pursuant to such approval shall comply with all conditions so imposed; or
- (d) approve the application in principle and require a detailed application to be submitted in terms of subsection (3); or
- (e) reject the application and state the reasons for the rejection.

(2) If, within a period of ninety days after receipt of an application for subdivision, the Minister or the planning authority, as the case may be, has failed to serve a notice on the applicant as to how the application has been dealt with under the provisions of subsection (1), then the application shall be deemed to have been approved by a decision of the appropriate authority.

(3) Where a detailed application is required under the provisions of this section, the Minister or planning authority shall notify the applicant of

such matters listed in the Third Schedule which are to be included in the detailed application.

(4) On receipt of a detailed application, the Minister or planning authority shall approve the application absolutely or subject to such modifications, amendments and conditions as he deems fit to impose in accordance with the Third Schedule, and any person developing the land pursuant to such approval shall comply with such conditions.

(5) If no detailed application is received within six months of the date on which notification was given under subsection (3), or within such further period of time as the Minister or planning authority may agree in writing prior to the expiration of the said period of six months, the application shall be deemed to be withdrawn and the approval in principle granted under subsection (1) shall be deemed to be cancelled.

(6) Where an application has been approved but the records of the subdivisional survey required by subsection (1) of section *ten* and section *twenty-one* of the Land Survey Act are not lodged with the Surveyor-General within the period stated in the approval, such approval shall be deemed to be cancelled:

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Provided that the Minister or the planning authority, on application by the owner of the land, may extend the said period prior to its expiration where considered necessary.

29. (1) Where application is made under this Part to the Minister or planning authority to whom functions have been delegated under section *twenty-four* for permission to develop or subdivide land, or for any approval of that planning authority required under a development order or subdivision order, and that permission or approval is refused by the Minister or planning authority, or is granted subject to conditions, then, if the applicant is aggrieved by the decision, he may, within twenty-eight days from the receipt of notification of the decision or such longer period as the Tribunal in writing may agree, and in the manner prescribed, appeal to the Tribunal.

Additional provisions for appeal to Tribunal

(2) Any person, other than an applicant, or any local or township authority who is dissatisfied with any decision made by the Minister or a planning authority to whom functions have been delegated under

section *twenty-four* in connection with an application for permission to develop or subdivide land, may, within twenty-eight days from the making of such decision or such longer period as the Tribunal in writing may agree, and in the manner prescribed, appeal to the Tribunal.

(3) Notwithstanding the provisions of subsection (1) or (2), the Tribunal shall not be required to entertain an appeal under the said subsection (1) or (2) in respect of the determination of an application for permission to develop or subdivide land-

(a) if it appears to the president or the vice-president of the Tribunal that permission for that development or subdivision could not have been granted otherwise than subject to the conditions imposed, having regard to the provisions of section *twenty-five* and of the appropriate development order or subdivision order and to any directions given under such order; or

(b) if the Minister has certified at the time of making the decision, or, if the decision is that of a planning authority to whom functions have been delegated under section *twenty-four*, the Minister has certified, within seven days of the making of such decision, that such decision is in the national interest.

(As amended by No. 25 of 1962, No. 28 of 1964 and No. 16 of 1965)

30. (1) Subject to the provisions of this section, if it appears to the Minister or planning authority to whom functions have been delegated under section *twenty-four* that it is expedient, having regard to the structure plan or local plan or approved structure plan or local plan and to any other material considerations, that any permission to develop or subdivide land granted by a development or subdivision order or on an application made in that behalf under this Part should be revoked or modified, he may by order revoke or modify the permission to such extent as appears to him to be expedient as aforesaid.

Revocation and modification of planning permission by the Minister

(2) The power conferred by this section to revoke or modify permission to develop or subdivide land may be exercised-

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

(b) where the permission relates to a change of the use of any land, at any time before the change has taken place:

Provided that the revocation or modification of permission for the carrying out of building or other operations shall not affect so much of those operations as has been previously carried out.

(3) Where permission to develop or subdivide land is revoked or modified by an order made under this section, then if, on a claim made to the Minister or planning authority within six months of the making of the order, it is shown that any person interested in the land has incurred expenditure in carrying out work that is rendered abortive by the revocation or modification, or has otherwise sustained loss or damage that is directly attributable to the revocation or modification, the Minister or planning authority shall pay to that person compensation in respect of that expenditure, loss or damage.

(4) For the purposes of this section, any expenditure incurred in the preparation of plans for the purposes of any work or upon other similar matters preparatory thereto shall be deemed to be included in the expenditure incurred in carrying out that work, but except as aforesaid no compensation shall be paid under this section in respect of any work carried out before the grant of the permission that is revoked or modified, or in respect of any other loss or damage (not being loss or damage consisting of the depreciation in value of an interest in land) arising out of anything done or omitted to be done before the grant of that permission.

(5) Where permission for the development of land granted by a development or subdivision order has been withdrawn, whether by the revocation or modification of the order or by the issue of directions under powers in that behalf conferred by the order, then if, on an application made in that behalf under this Part, permission for that development is refused or is granted subject to conditions other than those previously imposed by the development or subdivision order, the foregoing provisions of this section shall apply as if the permission granted under this Part by the Minister or planning authority had been revoked or modified by an order made under this section.

(6) Where the permission that is revoked or modified by an order under this section is permission for which compensation would be payable

under Part VI in the circumstances therein mentioned, the provisions of sections *thirty-five* and *thirty-nine* shall apply as if for references in section *thirty-five* to the refusal of the permission or the imposition of conditions on the grant thereof were substituted references to the revocation of permission or the modification thereof by the imposition of conditions, and subsection (1) of section *thirty-five* shall have effect as if for the words "if the permission had been granted or had been granted unconditionally" there were substituted the words "if the permission had not been revoked or had not been modified".

(7) Where, by virtue of the provisions of this section, compensation is payable in respect of expenditure incurred in carrying out any work on land, then if the President or the local or township authority purchases any interest in that land, or a claim for compensation is made in respect of any such interest under section *thirty-five*, any compensation payable in respect of the acquisition of that interest or, as the case may be, any compensation payable in respect of the interest under section *thirty-five*, shall be reduced by an amount equal to the value of the works in respect of which compensation is payable under this section.

(As amended by S.I. No. 65 of 1965 and Act No. 21 of 1997)

31. (1) If it appears to the Minister or planning authority to whom functions have been delegated under section *twenty-four* that any development or subdivision of land has been carried out after the appointed day without the grant of permission required in that behalf under this Part, or that any conditions subject to which such permission was granted in respect of any development or subdivision have not been complied with, then the Minister or planning authority may, within four years of such development being carried out, or, in case of non-compliance with a condition, within four years after the date of the alleged failure to comply with it, if he considers it expedient so to do having regard to the provisions of the appropriate structure plan or local plan or approved structure plan or local plan, if any, and to any other material considerations, serve on the owner and occupier of the land a notice (hereinafter called an enforcement notice) under this section.

Enforcement of
planning
control

(2) If it appears to the Minister or planning authority to whom functions have been delegated under section *twenty-four* that-

(a) any use of land should be discontinued or that any conditions should be imposed on the continuance thereof; or

(b) that any buildings or works should be altered or removed;

then the Minister or planning authority may by an enforcement notice served on the owner and occupier require the discontinuance of that use, or impose such conditions as may be specified in that notice on the continuance thereof or require such steps as may be specified to be taken for the alteration or removal of the building or works, as the case may be:

Provided that no such enforcement notice shall be served on an owner or occupier by a planning authority, other than any authority specified in the First Schedule, unless and until the Minister shall have approved such enforcement notice.

(3) Any enforcement notice served under subsection (1) shall specify the development or subdivision that is alleged to have been carried out without the grant of such permission as aforesaid or, as the case may be, the matters in respect of which it is alleged that any such conditions as aforesaid have not been complied with, and may require such steps as may be specified in the notice to be taken within such period as may be so specified for restoring the land to its condition before the development or subdivision took place, or for securing compliance with the conditions, as the case may be; and in particular any such notice may for the purpose aforesaid require the demolition or alteration of any buildings or works, the discontinuance of any use of land or the carrying out on land of any building or other operations.

(4) Except as otherwise provided in this section, an enforcement notice shall take effect at the expiration of such period (not being less than twenty-eight days after the service thereof) as may be specified therein.

(5) When, within the period mentioned in subsection (4), an appeal is made to the Tribunal under this section by a person on whom the enforcement notice was served, the operation of the enforcement notice shall be suspended pending the final determination or withdrawal of the appeal.

(6) If any person on whom an enforcement notice is served under subsection (1) is aggrieved by the enforcement notice, he may, at any time within the period mentioned in subsection (4), appeal against the enforcement notice to the Tribunal; and on any such appeal the

Tribunal-

(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) in any other case shall dismiss the appeal.

(7) If any person on whom an enforcement notice is served under subsection (2) is aggrieved by the enforcement notice, he may, at any time within the period mentioned in subsection (4), appeal against the enforcement notice to the Tribunal, and the Tribunal may in respect of such enforcement notice make any order which it is empowered to make under the provision of section *eleven*.

(8) Where the enforcement notice is varied or the appeal is dismissed, then, subject to paragraph (a) of subsection (6), the Tribunal may, if it 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 Tribunal thinks fit.

(9) The Minister and planning authority, as the case may be, shall keep in such manner as may be specified a register of every enforcement notice which has been served under the provisions of this section; and every such register shall be made available for inspection by the public during normal hours of official business at such place as the Minister may direct.

(As amended by Act No. 21 of 1997)

32. (1) If within the period specified in an enforcement notice made under subsection (1) of section *thirty-one*, or within such extended period as the Minister or planning authority to whom functions have been delegated under section *twenty-four* may allow, any steps required by the enforcement notice to be taken (other than the discontinuance of any use of land) have not been taken, the Minister or planning authority may enter on the land and take those steps, and may recover as a civil debt in any court of competent jurisdiction from the person who is then

Supplementary provisions as to enforcement including penalties

the owner of the land any expenses reasonably incurred by the Minister or planning authority in that behalf; and if that person, having been entitled to appeal to the Tribunal, failed to make such an appeal, he shall not be entitled in proceedings under this subsection to dispute the validity of the action taken by the Minister or planning authority upon any ground that could have been raised by such an appeal.

(2) Where, by virtue of an enforcement notice, any use of land is required to be discontinued, or any conditions are required to be complied with in respect of any use of land or in respect of the carrying out of any operations thereon, then if any person, without the grant of permission in that behalf under this Part, uses the land or causes or permits the land to be used, or carries out or causes or permits to be carried out those operations, in contravention of the enforcement notice, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifteen thousand penalty units and, in case of a continuing offence, to a further fine not exceeding one hundred and fifty penalty units for every day after the first day during which the use is so continued.

(As amended by No. 13 of 1994)

33. (1) Compliance with an enforcement notice, whether as respects-

Repeated
operation of
enforcement
notices

(a) the demolition or alteration of any buildings or works; or

(b) the discontinuance of any use of land; or

(c) any other requirements in the enforcement notice;

shall not discharge the enforcement notice.

(2) Without restricting the generality of subsection (1), where any development is carried out on land 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 not apt for the purpose, be deemed to apply in relation to the buildings or works as reinstated or restored as it applied in relation to the buildings or works before they were demolished or altered and subsections (1) and (2) of section *thirty-two*

shall apply accordingly.

PART VI

COMPENSATION FOR REFUSAL OR CONDITIONAL GRANT OF PLANNING PERMISSION

34. In this Part, "planning decision" means, in the case of an application for permission made under Part V, a refusal by the Minister or planning authority to whom functions have been delegated under section *twenty-four* of that permission, or a grant thereof by the Minister or planning authority subject to conditions, or a notice served under the provisions of subsection (2) of section *thirty-one*.

Definition of "planning decision"

35. (1) If, on a claim being made to the Minister or planning authority to whom functions have been delegated under section *twenty-four*, it is shown that, as a result of a planning decision involving a refusal of permission or a grant thereof subject to conditions, the value of the interest of any person in the land to which the planning decision relates is less than it would have been if the permission had been granted or had been granted unconditionally, then the Minister or planning authority, as the case may be, shall, subject to the provisions of this Part, pay to that person compensation of an amount equal to the difference.

Compensation for planning decision

(2) Where an order is made under subsection (2) of section *thirty-one* requiring any use of land to be discontinued or imposing conditions on the continuance thereof, or requiring any buildings or works on land to be altered or removed, then if, on a claim made to the Minister or the planning authority, as the case may be, it is shown that any person has suffered damage in consequence of the order by the depreciation of any interest in the land to which he is entitled or by being disturbed in his enjoyment of the land, the Minister or planning authority shall pay to that person compensation in respect of that damage.

(3) In determining for the purposes of subsection (1) to what extent, if any, the value of any interest in land is less than it would have been if the permission therein referred to had been granted or had been granted unconditionally, it shall be assumed that any subsequent application for permission in respect of the land would be determined in the same way,

except that if, on the refusal of permission for the development in respect of which the application is made, the Minister or planning authority undertakes to grant permission for any other development of the land in the event of an application being made in that behalf, regard shall be had to the undertaking in determining the matter aforesaid.

36. (1) Compensation under subsection (1) of section *thirty-five* shall not be payable-

No
compensation
payable in
certain cases

(a) in respect of the refusal of permission for any development that consists of or includes the making of any material change in the use of any buildings or land;

(b) in respect of the refusal of permission to develop or subdivide land if the reason or one of the reasons for the refusal is, and is stated to be, that development of the kind proposed would be premature by reference to either or both of the following matters, that is to say:

(i) the order of priority, if any, indicated in the structure plan or local plan for the area in which the land is situated for development in that area;

(ii) any existing deficiency in the provision of roads, water supplies, sewerage or other public services, and the period within which any such deficiency may reasonably be expected to be made good;

(c) in respect of the refusal of permission to develop and subdivide land if the reason or one of the reasons stated for the refusal is that the land is physically unsuitable for the proposed development, or would be prejudicial to natural resources and public health or dangerous to human life;

(d) in respect of the imposition, on the granting of permission to develop and subdivide land, of any condition relating to-

(i) the number or disposition of buildings on any land;

(ii) the dimensions, cost, design, structure or external appearance of any building, or the materials to be used in its construction;

(iii) the manner in which any land is to be laid out for the purposes of the development, including the provision of facilities for the parking, loading or fuelling of vehicles on the land;

(iv) the use of any buildings or land;

- (v) the location or design of any means of access to a highway or the materials to be used in the construction thereof;
 - (vi) the provision of any roads, surface water drainage, water supply or sewerage including sewage disposal plant;
 - (vii) cash or land endowment;
 - (viii) the transfer of ownership of lands reserved for the President or the local authority or township authority, as the case may be;
- (e) in respect of any planning decision on an application for consent to the display of advertisements;
- (f) in respect of the subdivision of land, any condition stipulated under subsection (4) of section *twenty-three*;
- (g) in respect of the refusal to subdivide agricultural land for agricultural purposes where the refusal is on the ground that such subdivision would be uneconomic or would render the holding uneconomic for agricultural purposes;
- (h) in respect of the granting of permission subject to conditions to subdivide agricultural land for agricultural purposes.

(2) For the purposes of this section, a planning decision whereby permission to develop or subdivide land is granted subject to a condition prohibiting development or subdivision of a specified portion of that land shall be treated as a decision refusing the permission as respects that portion of the land only.

(As amended by S.I. No. 65 of 1965 and Act No. 21 of 1997)

37. (1) Compensation under this Part shall not be payable in respect of a planning decision whereby permission is refused for the development or subdivision of land if, notwithstanding that refusal, there is available with respect to that land planning permission for development or subdivision to which this section applies. No compensation if other development permitted

(2) Where planning permission for development or subdivision to which this section applies is available with respect to a portion only of the land, this section shall have effect only in so far as the interest subsists in that portion.

(3) Where a claim for compensation under this Part is made in respect of an interest in any land, planning permission for development or subdivision to which this section applies shall be taken for the purposes of this section to be available with respect to that land or a portion thereof if, immediately before the Minister or planning authority gives notice of the findings in respect of that claim, there is in force with respect to that land or a portion thereof a grant of, or an undertaking by the Minister or planning authority to whom functions have been delegated under section *twenty-four* to grant, planning permission for some such development or subdivision subject to no conditions other than such as are mentioned in paragraph (d) of subsection (1) of section *thirty-six*.

(4) This section applies to any development of a residential, commercial or industrial character, if the development consists wholly or mainly of the construction of houses, flats, shop or office premises, hotels, garages and petrol filling stations, cinemas, or industrial buildings (including warehouses), or any combination thereof.

38. Where any person who is entitled to compensation under this Act is also entitled to compensation under any other Act in respect of the same matter, then such person shall elect whether he will claim compensation under this Act or under the said other Act, and such election shall be a bar to any further claim in respect of the same matter:

Exclusion and limitation of compensation in certain other cases

Provided that, where a person elects to claim compensation under this Act, he shall not be entitled to receive any greater compensation under this Act than he would have received under the said other Act.

39. (1) Compensation under this Part shall not be payable unless a claim for it is duly made in accordance with the provisions of this section.

General provisions as to claims for compensation

(2) A claim for compensation under this Part shall not have effect unless it is made before the end of the period of six months beginning with the date of the planning decision to which it relates, but the Minister or planning authority to whom functions have been delegated under section *twenty-four* may, in any particular case (either before, on or after

the date on which the time for claiming would otherwise have expired), allow an extended, or further extended, period for making such a claim.

(3) The Minister may, by statutory instrument, make regulations-

(a) prescribing the form in which claims for compensation under this Part are to be made;

(b) requiring a claimant to provide the Minister or planning authority with such evidence in support of the claim, and such information as to the interest of the claimant in the land to which the claim relates, and as to the interests of other persons therein that are known to the claimant, as may be prescribed.

(4) Compensation payable under this Part shall in default of determination by agreement be determined by the High Court in accordance with such procedure as shall be prescribed.

PART VII

ACQUISITION OF LAND

40. Where any land is required to be included in a structure plan or local plan or approved structure plan or approved local plan the Minister may recommend to the President that the Land may be acquired by the President in accordance with the Lands Acquisition Act.

Acquisition of land

Cap. 189

(As amended by S.I. No. 65 of 1965 and Act No. 21 of 1997)

41. (1) If the owner of any land which is reserved under the provisions of an approved structure plan or local plan is deprived of the reasonable beneficial use of such land by a refusal of permission to develop or subdivide such land solely on the ground that the proposed development or subdivision would interfere with the use of the land for the purpose for which it is reserved, he may call upon the Minister or the planning authority to whom functions have been delegated under section *twenty-four* to cause the reserved land to be acquired.

Owner may require acquisition of reserved land

(2) If the Minister or planning authority fails to effect the acquisition of

such reserved land within such period as may be prescribed, the Minister, on request being made by the owner of the land, shall order the deletion of the reservation of such land from the approved structure plan or local plan and shall substitute a zoning of the predominant use of the surrounding area, and the approved structure plan or local plan shall be amended and revised accordingly.

(3) Subject to the provisions of this Part, an owner may serve notice on the Minister or planning authority requiring that an order be made to cause his land in whole or in part to be acquired if by reason of any provision in an approved structure plan or local plan-

(a) so great a proportion of his land cannot be permitted to be developed that the remainder is incapable of reasonable beneficial use; or

(b) his land has been severed in such a manner that one or more severed portions are so small or so badly shaped as to be incapable of reasonable beneficial use.

(As amended by Act No. 21 of 1997)

42. The President or the local authority may, by way of sale or lease, with the agreement of the Minister or planning authority, as the case may be, dispose of land acquired (whether compulsorily or by agreement) under this Part to any body or person for development in accordance with permission granted under Part V.

Disposal of land

(As amended by S.I. No. 65 of 1965)

43. (1) In its application to this Act, Lands Acquisition Act, shall be read as if-

Assessment of valuation
Cap. 189

(a) section *eleven* were deleted;

(b) in the case of acquisition by a local authority-

(i) every reference to the President or the Minister was a reference to the local authority acquiring the land;

(ii) the reference to the Government in the proviso to subsection (1) of section *fifteen* was a reference to the local authority acquiring the land;

(iii) in section *twenty-one*, for the words "the President" were substituted the words "the local authority".

(2) Where land is being compulsorily acquired by a local authority, then the forms in the Schedule to the Lands Acquisition Act, may be so varied as to render them applicable to acquisition by such local authority.

(As amended by S.I. No. 65 of 1965)

PART VIII

REGIONAL PLANS

44. (1) The Minister may, when it appears necessary or desirable to him, order the preparation of a regional plan for any area for the general purpose of co-ordinating services and development within that area, and for the specific control of the use of land or for the provision of any land required for a public purpose with the same object in view and may include in the order such items listed in the Second Schedule, with such additional items as he may deem necessary, which the regional planning authority shall take into account in the preparation of the regional plan.

Preparation of regional plan

(2) A regional plan shall consist of a report of the survey in respect of the area to which the plan relates and the survey shall be carried out in such manner as may be prescribed, together with such maps and descriptive matter as may be necessary to indicate the manner in which land in the area may be used.

(As amended by G.N. No. 232 of 1964)

45. (1) The Minister may, by statutory notice, appoint a regional planning authority to prepare a regional plan ordered under section *forty-four*, and may specify the constitution of any such regional planning authority.

Appointment of regional planning authority

(2) A regional planning authority appointed under the provision of subsection (1) shall, when preparing a regional plan, consult with such authorities, persons or bodies as the Minister may from time to time direct.

(3) A regional planning authority shall, when it has prepared a regional plan, submit such plan in duplicate to the Minister.

(As amended by G.N. No. 232 of 1964)

46. The Minister may, after consultation with all planning authorities within the area of a regional plan submitted under this Part, approve the regional plan with or without modifications or reject it, and if the regional plan is approved, thereafter, no structure plan or local plan will be prepared, or an approved structure plan or local plan implemented or modified in a manner which does not have proper regard to the approved regional plan, without the consent of the Minister, nor shall any land reserved in any regional plan for a specific public purpose be used otherwise than for that purpose without the consent of the Minister:

Approval of regional plan

Provided that a regional plan shall not be approved with modifications unless and until the Minister has had consultation with the said planning authorities concerning the modifications which it is proposed to make.

(As amended by G.N. No. 232 of 1964 and Act No. 21 of 1997)

47. (1) The Minister may revoke or modify by alteration or addition, a regional plan approved under the provisions of section *forty-six*.

Revocation or modification of approved regional plan

(2) At least once in every five years after the date on which a regional plan for any area is approved by the Minister, the regional planning authority shall carry out a fresh survey of that area in such manner as may be prescribed, and shall submit a report of the survey, together with proposals for any alterations, additions or substitutions to the plan that appear to the regional planning authority to be required having regard thereto, to the Minister, who may if he deems it necessary order the preparation and submission of a new or an amended regional plan.

(As amended by G.N. No. 232 of 1964)

48. (1) The provisions of this Part shall apply to Customary Areas as defined in the Lands Act and to every township.

Application to Customary Areas and townships
Cap. 184

(2) The provisions of a regional plan shall bind the Republic.

(As amended by S.I. No. 65 of 1965)

PART IX

GENERAL

49. (1) For the purpose of the execution of his functions under this Act, the Minister may hold or cause to be held such public inquiries as he may deem necessary, and may for that purpose-

Power to hold or cause the holding of

(a) appoint any person to conduct a public inquiry and to report thereon to him in such manner as he may direct;

Public inquiries

(b) detail the terms of reference of such public inquiry.

(2) The provisions of sections *twelve* and *thirteen* shall apply, *mutatis mutandis*, to any such public inquiry, and the person appointed to conduct a public inquiry may exercise all or any of the powers conferred on the president or the vice-president of the Tribunal or on the Tribunal by the said sections.

50. Any notice or order served or made under this Act shall be in writing, and any notice or order shall be served on or given to any person or shall be sufficiently served if it is left at the last known postal, residential or business address of the person to be served or if it is sent by registered post addressed to the person by name at the last known postal, residential or business address of the person, and in such last case, the notice or order shall be deemed to have been received by the said person on the day on which such notice or order would have been received by the person in the ordinary course of post whether the same shall have been actually received by him or not.

Service of notices

51. (1) Subject to the restrictions imposed by subsection (2), any person authorised in writing by the Minister or by any planning authority shall have the right to enter upon any land or premises at all reasonable times with such men, vehicles, materials and instruments and to do all such acts thereon as are necessary for or incidental to the exercise of the powers conferred, or the performance of the duties imposed by this Act:

Right of entry

Provided that no person shall have the right to enter upon the said land until the expiry of a period of twenty-four hours after the serving of notice on the owner or occupier of the said land.

(2) The exercise of the rights conferred by subsection (1) shall be subject to any owner or occupier of any land or premises affected being entitled to compensation for any damage caused by the persons entering upon the land or premises under the provisions conferred by this section:

Provided that no matter or thing done by any duly authorised person in the proper execution of his duties in respect of any provision of this section shall make such person liable to any personal action, liability, claim or demand whatsoever.

(3) Any person who hinders or obstructs any other person in the exercise of any of the powers conferred by subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand five hundred penalty units.

(As amended by Act No. 13 of 1994)

52. Any consent granted under the provisions of this Act shall be in addition to and not in substitution for any consent required under any other written law or under any conditions or stipulations incorporated under the title of any land.

Additional consent
required

53. (1) The Minister may, by statutory instrument, make regulations for carrying this Act into effect.

Regulations

(2) In particular and without prejudice to the generality of the foregoing, such regulations may be made-

(a) prescribing the form of application, grant or refusal to subdivide or develop land, the information and documents to be submitted and the publication of any conditions of approval of such application;

(b) defining the groups to which specific land and building uses shall belong;

(c) prescribing the form of preparation, modification, revocation and submission of a structure plan or local plan;

(d) prescribing the form and contents of a planning survey, regional survey and plan;

(e) prescribing anything which may or is to be prescribed.

(As amended by Act No. 21 of 1997)

54. The provisions of the former Act are hereby repealed:

Savings

Provided that any application to subdivide land or establish a township which had been granted under the former Act, but had not been fully approved in detail on the appointed day, shall remain subject to the provisions of the former Act up to the date of the final approval of the application or, if the applicant so desires, a fresh application may be made under the provisions of this Act.

55. (1) Any acts, orders and conditions lawfully done, given or imposed under the provisions of the former Act, or under the provisions of any town planning scheme or zoning scheme or zoning plan prepared under the former Act before the appointed day, shall remain in full force and effect and be deemed to have been lawfully done, given or imposed under this Act, but shall not in respect of anything done prior to the appointed day give rise to claims for compensation under Part VI:

Acts, orders and conditions given or imposed under former Act

Provided that any order to prepare a town planning scheme under the Town Planning Act, Chapter 123 of the 1959 Edition of the Laws, in force immediately prior to the appointed day, other than an order in respect of the places mentioned in the First Schedule, shall have no force or effect.

(2) The functions of the Town Planning Board and Responsible Authorities under the provisions of any scheme approved under section *nineteen* or *twenty-eight* of the former Act shall be exercised by the Minister:

Provided that-

*(i) the Minister may delegate any such functions to a planning authority or any other persons subject to such conditions, directions or reservations as he thinks fit;

** (ii) the said functions shall be delegated to the appropriate planning authority set out in the First Schedule when any such scheme affects any of the areas set out in the First Schedule, and such delegation shall not be made subject to any conditions, directions or reservations.

* (1) Powers delegated to Lusaka Planning Authority in respect of the following townships: Avondale Park Private Township (General Notice No. 2232 of 1965). Barlaston Park Township (General Notice No. 2232 of 1965). Buckley's Township (General Notice No. 2232 of 1965). Handsworth Park Township (Government Notice No. 258 of 1963). Jesmondene Private Township (General Notice No. 2232 of 1965). St Mary's Private Township (General Notice No. 2232 of 1965).
(2) Powers delegated to Southern Planning Authority in respect of the following townships: Chelston Township (General Notice No. 1282 of 1963). Lilanda Estates Limited Private Township (General Notice No. 1121 of 1963).

** Powers delegated to appropriate City and Municipal Councils by Government Notice No. 23 of 1963.

(3) For the purposes of this section-

"Responsible Authorities" means Responsible Authorities appointed under the provisions of section *thirty-two* of the former Act;

"Town Planning Board" means the Town Planning Board constituted under the provisions of section *seven* of the former Act.

(As amended by No. 25 of 1962)

FIRST SCHEDULE

(Sections 5, 24 and 55)

PLANNING AUTHORITIES WITH DELEGATED POWERS AND RESPONSIBILITIES ON THE APPOINTED DAY

<i>Area</i>	<i>Authority</i>
City of Lusaka	City Council of Lusaka
City of Kitwe	City Council of Kitwe
City of Ndola	City Council of Ndola
Chingola Municipality
Municipal Council of Chingola	
Kabwe Municipality	Municipal Council of Kabwe
Livingstone Municipality	Municipal Council of Livingstone
Luanshya Municipality
Municipal Council of Luanshya	
Mufulira Municipality
Municipal Council of Mufulira	

SECOND SCHEDULE

(Sections 16 and 44)

MATTERS FOR WHICH PROVISION MAY BE MADE IN A DEVELOPMENT PLAN

Every development and regional plan shall have for its general purpose orderly, co-ordinated, harmonious and progressive development of the area and region to which it relates in order most effectively to promote health, safety, order, amenity, convenience and general welfare of all its inhabitants, as well as efficiency and economy in the process of development and the improvement of communications.

PART I. ROADS

1. Indicating proposals for the location of roads and the widening, improvement, realignment and extension of any roads.
2. Indicating proposals for the closure or diversion of existing roads and public and private rights of way and tracks.
3. Regulating the character, line, width, level and general dimension of roads, pavements and drains whether new or existing.
4. Providing for the reservation of land for parking, loading, unloading or fuelling of vehicles and for vehicular access points from adjoining land to any road.

PART II. PUBLIC SERVICES

Facilitating by reservation of land or any other measures the establishment, extension or improvement of works by local or township authorities or by undertakers, in relation to power, lighting, water supply, sewerage, sewage disposal, drainage, refuse disposal and other public services.

PART III. BUILDINGS AND OTHER STRUCTURES

1. Regulating and controlling either generally or in any particular area all or any of the following matters:
 - (a) the size, height, spacing and location of buildings;
 - (b) the density of development in any area either by designating the population, accommodation units, or buildings which may be established on any area or plot, or by designating the number and size of plots;
 - (c) the number of buildings of a specified class or classes which may be established,

constructed or erected, temporarily or permanently;

(d) the minimum cost per square foot of the building with a minimum overall cost of erection of the building and a minimum or maximum floor space of a building;

(e) the purpose for and the manner in which buildings may or may not be used or occupied including in the case of dwelling-houses the letting thereof in separate tenements;

(f) the removal, demolition or alteration of buildings or works which are inconsistent with or obstruct or retard the implementation of a development plan;

(g) external appearance and materials of buildings and other structures.

2. Defining and regulating building lines.

PART IV. USE OF LAND

1. Providing for the control of the use and change of use of land zones and reservations for various purposes including-

(a) dwelling-houses, flats or other residential development of various classes and densities;

(b) offices, shops and other commercial development;

(c) industries of various classes and warehouses;

(d) public buildings and places of assembly;

(e) Government and local authority or township authority purposes;

(f) cemeteries and crematoria;

(g) schools;

(h) agriculture, horticulture and forestry.

2. Providing for the permanent restriction or prohibition of the development of land on the grounds that-

(a) the land is physically unsuitable for building;

(b) the development would be prejudicial to natural resources or to public health or other public interests or would be dangerous to human life.

3. Providing for the temporary restriction or prohibition of the development of land on the grounds that-

(a) the land is physically unsuitable for building;

(b) the development would be prejudicial to natural resources or to public health or other public interests or would be dangerous to human life;

(c) the provision of public services would be uneconomic;

(d) the use is undetermined and awaiting zoning.

PART V. AMENITIES

1. Reserving of land for parks, recreation ground or other open space whether public or private.
2. Providing for the preservation of views, and places or features of natural beauty and interest.
3. Indicating or reserving sites of buildings and objects of archaeological, architectural, scientific or historical interest.
4. Preserving single trees, groups of trees and natural vegetation.
5. Prohibiting, restricting or otherwise controlling either generally or in any particular place the exhibition of all or any forms of advertising or public notice.
6. Prohibiting, restricting or otherwise controlling-
 - (a) the deposit or disposal of disused vehicles or waste materials;
 - (b) the pollution of rivers, lakes, lake shores and ponds.

PART VI. TRANSPORT AND COMMUNICATIONS

Facilitating by the reservation of land and auxiliary protective measures the establishment, extension or improvement of-

- (a) systems of transport whether overland or by water or by air;
- (b) telegraphic or telephonic communications.

PART VII. MISCELLANEOUS

1. Providing for and regulating agreements for any purpose of a development plan by the planning authority with owners and other persons and by such persons with one another.
2. Enabling the planning authority to permit reasonable extension to any existing buildings, uses or works which are not in conformity with or which contravene any provision of a development plan and to enter into an agreement with owners of non-conforming buildings, uses or works for continuation of such, for a period not exceeding twenty-five years, without compensation.
3. Indicating areas for the comprehensive redevelopment of land.
4. Any other matter not hereinbefore mentioned necessary or incidental to a development plan or its administration. (The mention of particular matters in this Schedule shall not be held to prejudice or affect the generality of any other matter.)

THIRD SCHEDULE

(Sections 25 and 28)

MATTERS WHICH MAY BE INCLUDED IN PERMISSION TO SUBDIVIDE

When considering applications for subdivision, the Minister or planning authority to whom functions have been delegated under section 24 may impose conditions of approval in respect of the following matters and, after implementation of such approval, the conditions shall be binding upon the owner, his successors and assigns:

- (1) The type and form of development to be carried out or permitted and the size, form and situation of holdings and the condition on which such holdings may be transferred.
- (2) The reservation of land for roads and public services or for any other purposes referred to in this Act for which land may be reserved.
- (3) (a) The character and type of roads or public services or other works including the standard of construction and maintenance of a road, water supply, drainage and sewerage works which are to be undertaken and completed by the applicant for subdivision at his cost; or
(b) The character and type of roads or public services or other works including the standard of construction of a road, water supply, drainage and sewerage works which are to be undertaken and completed by the applicant for subdivision at his cost.
- (4) Provision as to the forms of security to be given by the applicant for the due performance by him of any conditions imposed and provision as to the right of the Minister or planning authority, as the case may be, to carry out any such conditions at the expense of the applicant.
- (5) The co-ordination of the subdivision of contiguous properties in order to ensure the proper development of such properties.
- (6) The registration by the applicant of any conditions imposed in the deed of title of the property.
- (7) Notification by the applicant in the *Gazette* of the conditions imposed in such a manner as the Minister may direct.

(As amended by S.I. No. 65 of 1965)