

CHAPTER 240

TOWN AND COUNTRY PLANNING

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FIRST SCHEDULE

SECOND SCHEDULE

CHAPTER 240

TOWN AND COUNTRY PLANNING

An Act to make provision for the orderly and progressive development of land in both urban and rural areas and to preserve and improve the amenities thereof; for the grant of permission to develop land and for other powers of control over the use of land; to confer additional powers in respect of the acquisition and development of land for planning; and for purposes connected with the matters aforesaid.

[8th July, 1968] Commence-
ment.

1. This Act may be cited as the *Town and Country Planning Act*. Short title.

PART I

Preliminary

2. (1) For the purposes of this Act, the expression "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 purposes of advertisement, announcement or direction and, without prejudice to the foregoing provision, includes any hoarding or similar structure used or adapted for use for the display of advertisements, and references to the display of advertisements shall be construed accordingly;
- "agriculture" includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes;

Interpreta-
tion.

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

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

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

"building preservation order" has the meaning assigned to it by section 28;

"Committee" means the Town and Country Planning Advisory Committee established by section 4;

"development" has the meaning assigned to it by section 13, and "develop" has a corresponding meaning;

"development area" means an area in respect of which a development order has been made under section 15;

"development order" has the meaning assigned to it by section 15;

"development plan" has the meaning assigned to it by sections 5 and 6, and includes a plan made under section 7;

"enforcement notice" means a notice under section 33;

"engineering operations" includes the formation or laying out of means of access to roads;

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

"functions" includes powers and duties;

"highway authority" means an authority or person responsible for the maintenance of roads;

1968-14. "land" means any corporeal hereditament including a build-

ing as defined in this section and land underlying the sea waters surrounding the coast within the limits of the territorial waters of Barbados, and in relation to the acquisition of land under Part VI includes any interest in or over land;

“minerals” includes all minerals and substances (including oil) in or under land of a kind ordinarily worked for removal by underground or by surface working;

“owner” in relation to any land, means (except in section 36) a person, other than a mortgagee not in possession, who, whether in his own right or as trustee or agent for any other person, is entitled to the receipt of the rents and profits or, where the land is not let at a rent, would be so entitled if it were so let;

“planning decision” has the meaning assigned to it in Part VII;

“planning permission” means permission under Part IV, and in construing references to planning permission to develop land or to carry out any development of land or to applications for such permission regard shall be had to subsection (2) of section 22;

“planning permission granted for a limited period only” has the meaning assigned to it by subsection (3) of section 16;

“relocation of population or industry” means, in relation to an area of bad lay-out or obsolete development, the rendering available elsewhere than in that area, whether in an existing community or a community to be newly established, of accommodation for residential purposes or for the carrying on of business or other activities, together with all appropriate public services, facilities for public worship, recreation and amenity and other requirements, being accommodation to be rendered available for persons or undertakings who are living or carrying on business or other activities in that area and whose continued location in that area would be inconsistent with the proper planning thereof;

“replacement of open space” means, in relation to an area of bad lay-out or obsolete development, the rendering of land

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available for use as an open space or space or otherwise in an undeveloped state in substitution for land in that area which is so used;

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

“statutory undertakers” means persons authorised by any Act to carry on any road, transport, dock, harbour, pier, or lighthouse undertaking, or any undertaking for the supply of electricity, gas, hydraulic power or water, and “statutory undertaking” has a corresponding meaning;

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

“tree preservation order” has the meaning assigned to it by section 27;

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

1968-14.

(2) For the avoidance of doubt, it is hereby declared that any reference in this Act to a road shall be construed as a reference not only to the carriageway or that part of a road which is usually reserved for use by wheeled vehicles or pedestrians but also to the total road reserve, that is to say, all land reserved for use for the purpose of kerbs, footways, verges, drainage or other road works.

1968-14.

(3) Where by this Act or by any statutory instrument made thereunder, any function is required or permitted or is otherwise to be performed by the Chief Town Planner that function may be performed by some person authorised in writing in that behalf by the Chief Town Planner.

(4) Where pursuant to this Act or any statutory instrument

any directions are given by the Minister to the Chief Town Planner, those directions shall be published in the *Official Gazette*.

PART II

Administration

3. The Minister shall secure consistency and continuity in the framing and execution of a comprehensive policy for the use and development of all land in Barbados in accordance with Part III, and in particular, in respect of the use and development of the land in the coastal zone management area, shall execute that policy in accordance with the coastal zone management plan referred to in the *Coastal Zone Management Act*.

Duties of Minister.

1998-39.

Cap. 394.

4. (1) There is hereby established a body to be known as the Town and Country Planning Advisory Committee.

Constitution and duty of Town and Country Planning Advisory Committee. First Schedule.

(2) The constitution, procedure and powers of the Committee shall be in accordance with the *First Schedule*.

(3) The Committee shall, with a view to the proper carrying out of the provisions and objects of this Act, advise the Minister on any matter on which the Minister may seek its advice, on the preparation of development plans and generally as to the planning of development in Barbados.

PART III

Development Plans

5. (1) As soon as may be practicable after the 8th July, 1968, the Chief Town Planner shall carry out a survey of the whole of Barbados.

Preparation of development plans.

(2) Not later than 4 years after the appointed day or within such extended period as the Minister may allow, the Chief Town Planner shall submit for the approval of the Minister a development plan consisting of a report of the survey together with a plan showing the manner in which he proposes that the land in Barbados may be used (whether by the carrying out thereon of development or otherwise) and the stages by which any such development may be carried out.

Contents of
development
plans.

6. (1) A development plan shall include such maps and such descriptive matter as may be necessary to illustrate the proposals made therein by the Chief Town Planner with such degree of particularity as may be appropriate to different parts of Barbados; and a development plan may in particular

(a) define the sites of proposed roads, public and other buildings and works, air-fields, parks, pleasure grounds, nature reserves and other open spaces;

(b) allocate areas of land for use for agricultural, residential, industrial, commercial or other purposes of any class specified in the plan;

1968-14. (c) designate as land subject to compulsory acquisition by the Crown

1968-14. (i) any land allocated by the plan for the purposes of any of its functions (including any land which the Crown is or could be authorised to acquire compulsorily under any enactment other than this Act);

(ii) any land contained in an area defined by the plan as an area of comprehensive development (including any land therein that is allocated by the plan for any purpose mentioned in sub-paragraph (i) or any land adjoining any such area);

(iii) any other land that, in the opinion of the Chief Town Planner, ought to be subject to compulsory acquisition for securing its use in the manner proposed by the plan.

(2) For the purposes of this section, a development plan may define as an area of comprehensive development any area that in the opinion of the Chief Town Planner should be developed or re-developed as a whole for any of the following purposes, namely

(a) dealing satisfactorily with conditions of bad lay-out or obsolete development; or

(b) providing for the relocation of population or industry or the replacement of open space in the course of the development or re-development of any other area; or

(c) any other purpose specified in the plan;

and land may be included in any area so defined and designated as subject to compulsory acquisition in accordance with subsection (1) whether or not the plan provides for the development or re-development of that particular land.

(3) Without prejudice to subsections (1) and (2), a development plan may provide for any of the matters mentioned in the Second Schedule.

Second
Schedule.

7. At any time before a development plan for the whole of the Island has been submitted to and approved by the Minister, the Chief Town Planner may prepare and submit to the Minister for approval a development plan relating to any part of the Island; and sections 5 and 6 shall apply to such a plan as they apply to a plan relating to the whole of the Island.

Development
plan
relating to
part of
Island.

8. The Chief Town Planner may, during the preparation of a development plan relating to any land or during the preparation of any proposals for alterations or additions to any such plan, consult such persons or bodies as he thinks fit.

Consultation
by Chief
Town
Planner
with certain
persons or
bodies.
1968-14.

9. (1) Subject to this section, the Minister may approve any development plan submitted to him under section 5, either without modification or subject to such modifications as he considers expedient.

Approval
of develop-
ment plans.

(2) The Minister shall not approve a development plan which designates any land as subject to compulsory acquisition if it appears to the Minister that the acquisition is not likely to take place within five years from the date on which the plan is approved.

(3) The Minister shall not approve a development plan with a modification designating as subject to compulsory acquisition any land not so designated in the plan as submitted to him, unless he has received in writing the consent of all persons having an interest in that land.

1968-14.

(4) Before approving any development plan or proposals for the amendment of any such plan, the Minister shall cause

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to be published in three issues of the *Official Gazette* and of at least one newspaper published in the Island a notice—

- (a) stating that a development plan, or proposals for the amendment of such a plan, have been prepared by the Chief Town Planner;
- (b) naming the place or places where copies of the plan or proposals may be inspected and purchased by the public; and
- (c) stating the time (being not less than twenty-eight days from the last publication of such notice in the *Official Gazette*) within which objections or representations may be made to the Minister with respect to the plan or proposals.

(5) Where any objection or representation with respect to any plan or proposals for the amendment thereof is made in writing to the Minister within the time specified in the notice published under subsection (4), the Minister shall by instrument in writing appoint a person to hold on his behalf a public enquiry into the objection or representation and shall, before approving the plan or proposals, consider the objection or representation together with the report thereon of the person holding the public enquiry.

(6) A person appointed to hold a public enquiry under subsection (5) shall have the same powers as regards the regulation of the proceedings of the enquiry and the summoning and examination of witnesses and shall enjoy the same privilege from suit as a Commissioner appointed under the Commissions of Enquiry Act, and that Act shall, *mutatis mutandis*, apply in relation to an enquiry under this section and to any person summoned to give or giving evidence at any such enquiry.

(7) The name of every person appointed to hold a public enquiry under subsection (5) shall be published in the *Official Gazette*.

(8) Where, as a result of any objection or representation considered or public enquiry held with respect to any development plan or proposals for the amendment of such plan, the Minister is of the opinion that any authority or person ought to be consulted before he decides to approve the plan either

with or without modifications or to amend the plan, as the case may be, the Minister shall consult that authority or person, but he is not obliged to consult any other authority or person or to afford any opportunity for further objections or representations or to cause any further public enquiry to be held.

10. (1) Notice shall be published in three issues of the *Official Gazette* and of at least one newspaper published in the Island of the approval by the Minister of a development plan or of proposals for amendment of such a plan, and copies of any such plan or proposals as approved by the Minister shall be available for inspection and purchase by the public.

Notice of approval by Minister and date of operation of development plans.

(2) Every development plan or amendment of a development plan shall, after approval by the Minister, be submitted for the approval of both Houses and if approved by resolution of both Houses shall come into operation on such date after its approval by Parliament as the Minister may appoint by notice published in the *Official Gazette*.

11. (1) At least once in every five years after the date on which a development plan for the whole of the Island comes into operation, the Chief Town Planner shall carry out a fresh survey of the Island and submit to the Minister a report of the survey together with proposals for any alterations or additions to the plan that appear to him to be required.

Amendment of development plans.

(2) Notwithstanding subsection (1), the Chief Town Planner may at any time submit to the Minister proposals for such alterations or additions to any development plan as appear to him to be expedient.

(3) Subject to subsection (4), where proposals for alterations or additions to a development plan are submitted to the Minister under this section, the Minister may amend that plan to such extent as he considers expedient having regard to those proposals and to any other material considerations; and any such amendment may in particular provide for securing that any land previously designated by the plan as subject to compulsory acquisition shall cease to be so designated or that any land not previously so designated shall be so designated.

(4) Subsections (2) and (3) of section 9 shall apply in

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relation to the amendment of a development plan as they apply in relation to the approval of such a plan, with the substitution—

- (a) in subsection (2) of that section, of a reference to the date on which the amendment is effected for the reference to the date on which the plan is approved; and
- (b) in subsection (3) of that section, of a reference to the proposals submitted to the Minister under this section for the reference to the plan as submitted to him.

(5) Where under section 7 a development plan has been prepared for part of the Island and has been approved by the Minister, then, without prejudice to subsection (2), the periods of five years mentioned in subsection (1) shall run from the date on which development plans for the whole of the Island have been approved by the Minister.

Modification
of develop-
ment plans
in relation
to land
designated
as subject
to com-
pulsory
acquisition.

12. (1) Where any land is designated by a development plan as subject to compulsory acquisition, then, if at the end of six years after the date on which the plan, or the amendment of the plan, by which the land was first so designated came into operation, any of the land has not been acquired by the Crown, any owner of the land may serve on the Minister a notice requiring his interest in the land to be so acquired.

(2) Every notice under subsection (1) shall be in writing specifying the interest to be acquired and shall be served on the Minister by sending it by pre-paid registered post addressed to the Permanent Secretary to the Minister.

(3) Where a notice has been served under subsection (1), then, unless within the period of six months after the service of the notice the interest of the owner in the land has been so acquired, the development plan shall have effect, after the end of that period, as if the land were not designated as subject to compulsory acquisition.

(4) Where any land is designated by a development plan as subject to compulsory acquisition (not being land comprised in an area defined by the plan as an area of comprehensive development) then, if planning permission is granted for any development of the land so designated, or any part thereof, and that development is carried out in accordance with the

permission so granted, the development plan shall have effect as if the land to which the permission relates were not designated as subject to compulsory acquisition, but in the case of planning permission granted for a limited period, this subsection shall cease to have effect at the end of the period for which the permission was granted.

PART IV

Planning Control

PLANNING PERMISSION

13. (1) For the purposes of this Act, the expression “development”, subject to this section, means the carrying out of building, engineering, mining or other operations in, on, over or under any land, the making of any material change in the use of any buildings or other land or the sub-division of land.

Meaning of
“develop-
ment”.

(2) For the purposes of this Act, the following operations or uses of land do not constitute development of the land, namely

- (a) the carrying out in accordance with any regulations or orders made under this Act of works for the maintenance, improvement or other alteration of any building, being works which do not materially affect the external appearance of the building; 1968-14.
- (b) the carrying out by a highway authority of any works required for the maintenance or improvement of a road (if the works are carried out on land within the boundaries of the road);
- (c) the carrying out by statutory undertakers of any works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any road or other land for that purpose;
- (d) the use of any buildings or other land within the curtilage of a dwelling-house for any purpose incidental to the enjoyment of the dwelling-house as such;
- (e) the use of any land for the purposes of agriculture or forestry, including afforestation, and the use for any 1981-44.

agricultural purpose, other than for dairy farming and the breeding and keeping of livestock, including any creature kept for the production of food, wool, skin or fur or for the purpose of its use in farming the land, or of any building occupied together with the land so used;

- (f) in the case of buildings or other land which are used for a purpose of any class specified in a development order made under section 15, the use thereof for any other purpose of the same class.

1968-14.

(3) For the avoidance of doubt, it is hereby declared that for the purposes of this section

- (a) the use as 2 or more separate dwelling-houses of any building previously used as a single dwelling-house involves a material change in the use of the building and of each part thereof which is so used;
- (b) the deposit of refuse or waste materials on land involves a material change in the use thereof, notwithstanding that the land is comprised in a site already used for that purpose, if either the superficial area of the deposit is thereby extended or the height of the deposit is thereby extended and exceeds the level of the land adjoining the site.

(5) Without prejudice to any regulations relating to the control of advertisements, the use for the display of advertisements of any external part of a building which is not normally used for that purpose is, for the purposes of this section, a material change in the use of that part of the building.

Develop-
ment re-
quiring
planning
permission.

14. (1) Subject to this section, planning permission is required for the carrying out of any development of land within any area in respect of which an order is made or is deemed to have been made under section 15.

(2) Where on the 8th July, 1968, land is being used temporarily for a purpose other than the purpose for which it is normally used, planning permission is not required for the resumption of the use of the land for the last-mentioned purpose.

(3) Where on the appointed day land is normally used for one purpose and was also used on occasions, whether at regular intervals or not, for another purpose, planning permission is not required for the use of the land for that other purpose on similar occasions.

(4) Where land is unoccupied on the appointed day but had before that day been occupied at some time, planning permission is not required for the use of the land for the purpose for which it was last used before the appointed day.

(5) Where planning permission has been granted for a limited period, planning permission is not required for the resumption, at the end of that period, of the use of the land for the purpose for which it was normally used before the permission was granted.

(6) In determining for the purposes of subsections (2) and (4) respectively, what were the purposes for which land was normally used or last used, account shall not be taken of any use of the land begun in contravention of previous planning control; and in determining for the purposes of subsection (5) what were the purposes for which land was normally used before the grant of planning permission, account shall not be taken of any use of land begun in contravention of this Part or in contravention of previous planning control.

(7) Where by a development order planning permission is granted subject to limitations, planning permission is not required for the use of that land which (apart from its use in accordance with that permission) is the normal use of that land, unless that last-mentioned use was begun in contravention of this Part or in contravention of previous planning control.

(8) For the purposes of this section, a use of land was begun in contravention of previous planning control if it was begun in contravention of the provisions of the *Town and Country Development Planning (Interim Control) Act, 1959*,¹ or of any order made under section 3 of that Act.

15. (1) The Minister may by order (in this Act referred to as a development order) provide for the grant of planning permission under this Part. Development orders.

(1A) The Minister shall not grant planning permission for development in the coastal zone management area which is prohibited under the coastal zone management plan. 1998-39.

¹Act 1959-20, repealed by this Act.

(2) A development order may be made in respect of the whole of Barbados or any area thereof and, where made in respect of an area of Barbados, shall define in writing the extent and boundaries of that area.

(3) A development order may either

- (a) itself grant planning permission for development specified in the order or for development of any class so specified; or
- (b) in any other case, provide for the grant of planning permission by the Chief Town Planner on an application made to him in that behalf.

(4) Permission granted by a development order may be granted either unconditionally or subject to such conditions or limitations as may be specified in the order.

(5) Without prejudice to the generality of subsection (4), a development order which grants permission for any development may

- (a) where planning permission is thereby granted for the erection, extension or alteration of any buildings, require the approval of the Chief Town Planner to be obtained with respect to the design or external appearance thereof;
- (b) where planning 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.

(6) To enable development to be carried out in accordance with planning permission granted under this Part or otherwise to promote proper development in accordance with the development plan, a development order may direct that any Act, statutory instrument, or other enactment or law which was in force on the 8th July, 1968, or any statutory instrument made (whether before or after that day) under any such Act or other enactment or law shall not apply to any development specified in the order or shall apply thereto subject to such modifications as may be so specified.

16. (1) Subject to this section and sections 17 and 18, where application is made to the Chief Town Planner for planning permission, that officer, in dealing with the applications, shall have regard to the provisions of the development plan, so far as material to the application and to any other material considerations, and

Determina-
tion of
applications
for planning
permission.

- (a) may grant planning permission either unconditionally or subject to such conditions as he thinks fit; or
- (b) may refuse planning permission.

(2) Without restricting the generality of subsection (1), conditions may be imposed on the grant of planning permission thereunder

- (a) for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made) or requiring the carrying out of works on any such land, so far as appears to the Chief Town Planner to be expedient for the purposes of or in connection with the development 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 end of a specified period, and the carrying out of any works required for the re-instatement of land at the expiration of that period;
- (c) for requiring the commencement or completion of any development before a specified date on or before the completion of any other development being carried out or to be carried out by the same applicant;
- (d) for requiring the provision of proper services including gas, water, electricity and roads before the sale, lease or other disposition of any land for which permission has been granted for sub-division for housing purposes or commercial or industrial purposes.

(3) Any planning permission granted subject to any such condition as is mentioned in paragraph (b) of subsection (2) is in this Act referred to as "planning permission granted for a limited period".

(4) Where

- (a) planning permission is granted for development consisting of or including the carrying out of building or other operations subject to a condition that the operations shall be commenced or completed before a date specified in the condition; and
- (b) any building or other operations are commenced or completed after the date so specified,

then

- (i) the commencement and carrying out of those operations in the case of a condition requiring the commencement of those operations before a date specified in the condition; or
- (ii) the carrying out of any operations after the date specified in the conditions, in the case of a condition requiring those operations to be completed before such date,

do not constitute development for which that permission was granted.

Supplemen-
tary
provisions
as to
applications
for planning
permission.
1998-39.

17. (1) Application to the Chief Town Planner for planning permission shall be made in such form and shall include such drawings and other particulars as may be prescribed; and in particular if requested by the Chief Town Planner, may be accompanied by an assessment of the impact that the development in respect of which planning permission is being applied for is likely to have on the environment of Barbados.

1998-39.

(1A) The Chief Town Planner shall request an assessment referred to in subsection (1) where part or all of the development or use of land is proposed to occur in the coastal zone management area.

1998-39.

(1B) The Chief Town Planner may by notice in writing require the applicant to submit such further information as the Chief Town Planner thinks fit.

(1C) Before granting or refusing planning permission under section 15, the Minister shall consult with the Director of Coastal Zone Management. 1998-39.

(2) Provision may be made by a development order for regulating the manner in which applications for planning permission are to be dealt with by the Chief Town Planner and in particular

- (a) for enabling the Minister to give directions restricting the grant of planning permission by the Chief Town Planner during such period as may be specified in the directions in respect of any such development, or in respect of development of any such class, as may be so specified;
- (b) for requiring the Chief Town Planner before granting or refusing planning permission to consult with the Town and Country Planning Advisory Committee or with such other authorities as may be prescribed by the order or by directions given by the Minister thereunder;
- (c) for requiring the Chief Town Planner to give to any applicant for planning permission such notice as may be prescribed by the order as to the manner in which his application has been dealt with; 1981-44.

(d) for requiring the Chief Town Planner to furnish to the Minister and to such other persons as may be prescribed by the order, such information as may be so prescribed with respect to applications for planning permission made to him, including information as to the manner in which any such application has been dealt with.

(3) The Chief Town Planner shall keep, in such manner as may be prescribed, a register containing such information as may be prescribed, with respect to applications for planning permission made to him, including information as to the manner in which such applications have been dealt with.

(4) Every register kept under subsection (3) shall be available for inspection by the public at all reasonable hours.

18. (1) The Minister may give directions to the Chief Town Planner requiring that any application made to that officer for planning permission or all such applications of any class specified in the directions shall be referred to the Minister instead of being dealt with by the Chief Town Planner, and any such application shall be so referred accordingly.

Reference
of Planning
applications
to Minister.

(2) Subject to subsection (3), where an application for planning permission is referred to the Minister under this section notice of the reference shall be given to the applicant by the Chief Town Planner and subsections (1) and (2) of section 16 shall apply, with any necessary modifications, as they apply to an application for planning permission which falls to be determined by the Chief Town Planner.

(3) Before determining an application referred to him under this section, the Minister shall, if either the applicant or the Chief Town Planner so desire, give each of them an opportunity of appearing before, and being heard by, a person or persons appointed by the Minister for the purpose.

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

Reference
of planning
decisions
for review
by Minister.

1968-14.

1981-44.

1981-44.

19. (1) Where an application is made to the Chief Town Planner for planning permission or for any approval of that officer required under a development order and that permission or approval is refused or is granted by that officer subject to conditions or he fails to give notice in accordance with section 20(1), then, subject to subsection (2), the applicant, if he is aggrieved by the decision of the Chief Town Planner or by the Chief Town Planner's failure to give notice, may, in the prescribed manner and within the time prescribed or within such further time as the Minister may in his discretion allow, request that officer to refer the decision for review by the Minister.

(2) No request for the review of a decision may be made under subsection (1) where a notice has been given to the applicant under subsection (2) of section 18 that the application has been referred to the Minister.

(3) Where the Chief Town Planner has been requested to defer a decision, he shall refer the decision accordingly with all reasonable despatch.

(4) Notwithstanding subsection (1), the Minister may refuse to review a decision referred to him under this section in respect of an application for planning permission if it appears to the Minister that planning permission for that development could not have been granted by the Chief Town Planner or could not have been so granted otherwise than subject to the conditions imposed by that officer having regard to the provisions of sections 16 and 17 and of the development order and to any directions given under that order.

(5) Where a decision of the Chief Town Planner is referred under this section to the Minister, the Minister subject to the following provisions of this section, may confirm or may reverse or vary any part of the decision of that officer, whether or not the request for review relates to that part and may deal with the application as if it had been made to him in the first instance.

(6) Before reviewing any decision referred to him under this section, the Minister shall, if either the applicant or the Chief Town Planner so desire, give each of them an opportunity of appearing before and being heard by, a person or persons appointed by the Minister for the purpose.

(7) Subsections (1) and (2) of section 16 shall apply, with any necessary modifications, in relation to the review of a decision by the Minister under this section as they apply in relation to an application for planning permission which falls to be determined by the Chief Town Planner.

(8) The decision of the Minister on review of any decision referred to him under this section shall be final.

(9) On the review of any decision referred to him under this section, the Minister

- (a) shall, by notice in writing under the hand of his Permanent Secretary, inform the applicant and the Chief Town Planner of his decision;
- (b) may in such notice direct that the Chief Town Planner, or the applicant, as the case may be, shall pay such costs not exceeding \$50 as the Minister thinks fit;
- (c) shall, if requested to do so by the applicant, furnish the applicant with a written statement of the reasons for his decision.

(10) All costs directed to be paid under subsection (9) shall be paid within 1 month of the date of the notice under subsection (9) informing the applicant and the Chief Town Planner of the decision of the Minister and in default of payment may be recovered on a complaint made by the person entitled to the same before one of the magistrates of District "A".

20. (1) Where an application is made to the Chief Town Planner for planning permission or for his approval under a development order, then, unless before the expiration of 2 months from the date of the receipt by him of the application, the Chief Town Planner

Appeal in
default of
planning
decisions.
1981-44.

- (a) gives notice to the applicant of his decision on the application; or
- (b) gives notice to the applicant that the application has been referred to the Minister in accordance with directions given under section 18,

section 19 applies in relation to the application as if the permission or approval to which it relates had been refused by the Chief Town Planner and notification of his decision had been received by the applicant at the expiration of that period.

(2) A decision of the Chief Town Planner is not invalidated by reason of its having been issued after the expiration of the period of 2 months mentioned in subsection (1).

Applica-
tions to
determine
whether
planning
permission
required.

21. (1) Where any person who proposes to carry out any operations on land, or to make any change in the use of land, wishes to have it determined whether the carrying out of those operations, or the making of that change, would constitute or involve development of land, and, if so, whether an application for planning permission is required under this Part, having regard to the provisions of any development order, he may, either as part of an application for the planning permission or without any such application, apply to the Chief Town Planner to determine that question.

(2) Section 15, subsection (1) of section 16, subsections (2), (3) and (4) of section 17 and section 18 shall, subject to any necessary modifications, apply in relation to any application under this section and to the determination thereof, as they apply in relation to applications for planning permission and to the determination of such applications.

(3) Any person dissatisfied in point of law with the decision of the Chief Town Planner on an application made under subsection (1), may, in accordance with any rules of court, appeal against the decision to a Judge in chambers.

(4) Where an application is made under subsection (1), then, unless within such period as may be prescribed or within such extended period as may at any time be agreed upon in writing between the applicant and the Chief Town Planner, that officer fails to notify the applicant of his decision on the application or that the application has been referred to the Minister in accordance with directions given under section 18, the applicant may by summons apply to a Judge in chambers to determine whether planning permission is required.

(5) Where an application under subsection (1) is made as part of an application for planning permission, the preceding provisions of this section shall have effect in relation to that application in so far as it is an application under subsection (1), but not in so far as it is an application for planning permission.

(6) Appeals or applications to a Judge in chambers under subsections (3) and (4) shall be brought or made, as the case may be, within such time as may be prescribed or within such further time as the Judge may allow.

(7) On the determination of an appeal under subsection (3) or an application under subsection (4), the appellant or applicant, as the case may be, or the Chief Town Planner, may appeal to the Court of Appeal against the decision of the Judge.

22. (1) An application for planning permission may relate to buildings or works constructed or carried out, or a use of land instituted, before the date of the application, whether—

Permission to retain buildings or works or continue use of land.

- (a) the buildings or works were constructed or carried out, or the use instituted, without planning permission or in accordance with planning permission granted for a limited period; or
- (b) the application is for planning permission to retain the buildings or works or continue the use of the land, without complying with some condition subject to which a previous planning decision was granted.

(2) Any power to grant planning permission to develop land under this Act includes a power to grant planning permission for the retention on land of buildings or works constructed or carried out or for the continuance of a use of land instituted, as mentioned in subsection (1); and references in this Act to planning permission to develop land or to carry out any development of land, and to applications for such permission, shall be construed accordingly; but this subsection shall not affect the construction of Part VII.

(3) Any planning permission granted in accordance with subsection (2) 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 (in the case of buildings or

THE LAWS OF BARBADOS

works constructed or a use instituted in accordance with planning permission granted for a limited period) so as to take effect from the end of that period, as the case may be.

Supple-
mentary
provisions as
to effect of
planning
permission.

23. (1) Without prejudice to the provisions of this Part with respect to the revocation or modification of planning permission, any grant of planning permission to develop land shall, except in so far as the permission otherwise provides, enure for the benefit of the land and of all persons for the time being interested therein.

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

REVOCATION OR MODIFICATION OF PLANNING PERMISSION

Revocation
or modifica-
tion of
planning
permission.

24. (1) (a) Subject to this section, if it appears to the Chief Town Planner, having regard to the development plan and to any other material considerations, that it is expedient to revoke or modify any planning permission granted on an application made or deemed to have been made under this Part, that officer may by order published in the *Official Gazette* revoke or modify the permission to such extent as he considers expedient.

(b) For the purposes of this section, an application for planning permission made under the Town and Country Development Planning (Interim Control) Act, 1959,¹ or any Interim Control Order made thereunder shall be deemed to have been made under this Part.

(2) The power conferred by this section to revoke or modify a planning permission 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

¹ Act 1959-20, repealed by this Act.

any land, at any time before the change has taken place; but the revocation or modification of planning 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) An order by the Chief Town Planner under subsection (1) shall not take effect unless it is confirmed by the Minister, and the Minister may confirm any such order submitted to him either without modification or subject to such modification as he considers expedient.

(4) Where the Chief Town Planner submits an order to the Minister for his confirmation under this section, that officer shall serve notice on the owner and on the occupier of the land affected and on any other person who in his opinion will be affected by the order; and if within such period as may be specified in that behalf in the notice (being not less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Minister, before confirming the order, shall give that person and the Chief Town Planner, an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

ADDITIONAL POWERS OF CONTROL

25. (1) Where it appears to the Chief Town Planner that it is expedient in the interests of proper planning of any development area (including the interests of amenity), regard being had to the development plan and to any other material considerations,—

Orders requiring discontinuance of use or alteration or removal of buildings or works.

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

the Chief Town Planner may by order published in the *Official Gazette* require the discontinuance of that use or impose such conditions as may be specified in the order on the continuance thereof or require such steps as may be specified to be taken

THE LAWS OF BARBADOS

for the alteration or removal of the buildings or works, as the case may be.

(2) An order under this section may grant planning permission for any development of the land to which the order relates, subject to such conditions as may be specified in the order; and section 24 shall apply in relation to any planning permission granted by an order under this section as it applies in relation to planning permission granted by the Chief Town Planner on an application made under this Part.

(3) The power conferred by subsection (2) includes power, by an order under this section, to grant planning permission, subject to such conditions as may be specified in the order—

- (a) for the retention on the land to which the order relates of buildings or works constructed or carried out before the date on which the order was submitted to the Minister; or
- (b) for the continuance of a use of that land instituted before that date;

and subsection (3) of section 22 shall apply to planning permission granted by virtue of this subsection as it applies to planning permission granted in accordance with subsection (2) of that section.

(4) An order under this section shall not take effect unless it is confirmed by the Minister, either without modification or subject to such modifications as he considers expedient.

(5) The power of the Minister under this section to confirm an order subject to modifications includes power—

- (a) to modify any provisions of the order granting planning permission, as mentioned in subsection (2) or subsection (3);
- (b) to include in the order any grant of planning permission which might have been included in the order as submitted to the Minister.

(6) Where the Chief Town Planner submits an order to the Minister for his confirmation under this section, that officer shall serve notice on the owner and on the occupier of the land affected and on any other person who in his opinion will be

affected by the order, and if within the period specified in that behalf in the notice (being not less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Minister, before confirming the order, shall give to that person and to the Chief Town Planner an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

(7) Where an order under this section has been confirmed by the Minister, the Chief Town Planner shall serve a copy of the order on the owner and on the occupier of the land to which the order relates.

(8) Where the requirements of an order under this section will involve the displacement of persons residing in any premises, the Chief Town Planner shall, in so far as there is no other residential accommodation suitable to the reasonable requirements of those persons available on reasonable terms, secure the provision of such accommodation in advance of the displacement.

26. (1) Where it appears to the Chief Town Planner that the amenity of any part of the Island is, or is likely to be, seriously injured by the condition of any building, garden, vacant site or other open land, then, subject to any directions given by the Minister, the Chief Town Planner may serve on the owner and occupier of the building or other land a notice requiring such steps for abating the injury as may be specified in the notice to be taken within such period as may be so specified.

Proper
maintenance
of buildings
and waste
land, etc.

(2) Subject to subsection (2) of section 42, a notice under this section shall take effect at the end of such period (not being less than twenty-eight days after the service thereof) as may be specified in the notice.

27. (1) Where it appears to the Minister that it is expedient in the interests of amenity or of soil conservation to make provision for the preservation of trees or woodlands in any part of the Island, then subject to subsections (2), (3), (4) and (5), the Minister may for that purpose make an order (in this Act referred to as a tree preservation order) with respect to

Tree
preservation
orders.

1968-14.

THE LAWS OF BARBADOS

such trees, groups of trees or woodlands as may be specified in the order, and in particular provision may be made by any such order—

- (a) for prohibiting (subject to any exemption for which provision may be made by order) the cutting down, topping, lopping or wilful destruction of trees except with the consent of the Chief Town Planner and for enabling that officer to give his consent subject to conditions;
- (b) for securing the replanting, in such manner as may be prescribed by or under the order, of any part of a woodland area which is felled in the course of forestry operations permitted by or under the order;
- (c) for applying, in relation to any consent under the order and to applications for such consent, any of the provisions of this Part relating to permission to develop land and to applications for such permission subject to such adaptations and modifications as may be specified in the order;
- (d) for the matters mentioned in section 64.

(2) Every order made under subsection (1) shall define the position of the trees, groups of trees or woodlands to which it relates and for that purpose shall include a map or refer to a map kept for inspection at the office of the Chief Town Planner.

(3) Before an order is made under subsection (1), the Minister shall cause the fact that he proposes to make such an order to be advertised by a notice published as provided hereinafter in this section.

(4) The notice referred to in subsection (3) shall—

- (a) be published once in the *Official Gazette* and at intervals of not less than four days in at least three issues of a newspaper published in the Island, and state the grounds on which the Minister intends to make the order;
- (b) contain such particulars as to the trees, groups of trees or woodlands and the land to be affected by the order as the Minister may consider necessary in order that the owner or occupier of the land or any other person

interested may make objections or representations with respect to the proposed order;

- (c) state that objections and representations with respect to the making of the order may be made in writing to the Minister within such period as may be specified in the notice being not less than twenty-eight days from the date of publication of the notice in the *Official Gazette*;
- (d) be served on the owners and occupiers of land affected by the proposed order.

(5) Every objection and representation received by the Minister within the period stated in the notice or within such extended period as the Minister may allow shall be considered by the Minister before any order is made under subsection (1).

(6) Notwithstanding the foregoing provisions of this section, where it appears to the Minister that any tree preservation order should take effect immediately, the Minister may make the order provisionally without complying with the requirements of subsections (3), (4) and (5), but any order so made shall cease to have effect at the expiration of two months from the date on which it is so made unless within that period it has again been made, with or without modifications, after compliance with those requirements.

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

(8) Any person who contravenes any of the provisions of a tree preservation order is guilty of an offence and is liable on conviction thereof by a court of summary jurisdiction to a fine of five hundred dollars and, in case of a continuing offence, to a further fine of one hundred dollars for every day after the first day during which the contravention is so continued.

(9) The preceding provisions of this section shall have effect

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Cap. 259. subject to sections 2, 9, 10 and 11 of the Cultivation of Trees Act.

Building
preservation
orders.

28. (1) Where it appears to the Minister that it is expedient to make provision for the preservation of any building of special architectural or historic interest in the Island, the Minister may for that purpose make an order (in this Act referred to as a building preservation order) restricting the demolition, alteration or extension of the building.

(2) The Minister shall not make a building preservation order unless satisfied that the execution of the works specified in the order would seriously affect the character of the building.

(3) Provision may be made by a building preservation order—

- (a) for requiring the consent of the Chief Town Planner to be obtained for the execution of works of any description specified in the order and for enabling that officer to give his consent subject to conditions;
- (b) for applying in relation to such consent and to application for such consent any of the provisions of this Part relating to permission to develop land and to applications for such permission subject to such adaptations and modifications as may be specified in the order;
- (c) for enabling the Chief Town Planner, where any works have been executed in contravention of the order, to require the restoration of the building to its former state, and for that purpose for applying any of the provisions of Part V with respect to enforcement of planning control subject to such adaptations and modifications as may be specified in the order;
- (d) for the matters mentioned in section 64.

(4) Subsections (2), (3), (4), (5) and (6) of section 27 shall apply to the making of building preservation orders as they apply to the making of tree preservation orders subject to such modifications and adaptations as may be necessary.

(5) Nothing in any building preservation order shall render unlawful the execution of any works which are urgently neces-

sary in the interests of safety or health or for the preservation of the building or of neighbouring property, so long as notice in writing of the proposed execution of the works is given to the Chief Town Planner, as soon as may be after the necessity for the works arises.

(6) Any person, being the owner or occupier of a building in relation to which a building preservation order is in force, who executes or causes or permits the execution of any works in contravention of the order is guilty of an offence and is liable on conviction thereof by a court of summary jurisdiction to a fine of five hundred dollars.

29. (1) For the purpose of performing his functions under this Act in relation to buildings of special architectural or historic interest, the Minister shall cause to be compiled lists of such buildings or approve, with or without modifications, such lists compiled by the Barbados National Trust or other persons or bodies of persons, and may amend any list so compiled or approved.

Lists of buildings of special architectural or historic interest.

(2) As soon as may be after any list has been compiled or approved under this section or any amendments of a list have been made, the list or any amendment to such a list shall be published in the *Official Gazette* and notice of the publication in the *Official Gazette* of any such list or amendments thereto shall be given in three issues of at least one newspaper published in the Island.

(3) As soon as may be after the inclusion of any building in a list under this section, whether on compilation or approval of the list or by the amendment thereof, or as soon as may be after any such list has been amended by the exclusion of any building therefrom, the Minister shall serve a notice on every owner and occupier of the building, stating that the building has been included in, or excluded from, the list, as the case may be.

(4) Before compiling or approving, with or without modifications, any list under this section, or amending any list thereunder, the Minister shall consult with such persons or bodies of persons as appear to him appropriate as having special knowledge of, or interest in, buildings of architectural and historic interest.

THE LAWS OF BARBADOS

Effect of inclusion of building in a list under section 29.

30. (1) Subject to this section, so long as a building (not being a building to which a building preservation order applies) is included in a list compiled or approved under section 29, no person shall execute or cause or permit to be executed any works for the demolition of the building, or for its alteration or extension in any manner which would seriously affect its character, unless at least two months before the works are executed notice in writing of the proposed works has been given to the Chief Town Planner.

(2) Nothing in subsection (1) shall render unlawful the execution of any works which are urgently necessary in the interests of safety or health or for the preservation of the building or of neighbouring property, so long as notice in writing thereof has been given to the Chief Town Planner as soon as may be after the necessity for the works arises.

(3) Where the Chief Town Planner receives notice of any proposed works under subsection (2), he shall as soon as may be send a copy of the notice to the Minister and to such other persons or bodies of persons as may be specified by directions of the Minister either generally or in respect of the building in question.

Control of advertisements.

31. (1) Subject to this section, the Minister may by regulations published in the *Official Gazette* make such provision for restricting or regulating the display of advertisements as appears to him to be expedient in the interests of amenity or public safety.

(2) Without restricting the generality of subsection (1), any such regulations may provide—

- (a) for regulating the dimensions, appearance and position of advertisements which may be displayed, the sites on which advertisements may be displayed and the manner in which they are to be affixed to the land;
- (b) for requiring the consent of the Chief Town Planner to be obtained for the display of advertisements or of advertisements of any class specified in the regulations;
- (c) for applying in relation to any such consent and to applications therefor, any of the provisions of this Part

- relating to permission to develop land and to applications for such permission, subject to such adaptations and modifications as may be specified in the regulations;
- (d) for enabling the Chief Town Planner to require the removal of any advertisement that is being displayed in contravention of the regulations or the discontinuance of the use for the display of advertisements of any site that is being used for that purpose in contravention of the regulations and for that purpose for applying any of the provisions of Part V with respect to enforcement notices, subject to such adaptations and modifications as may be specified in the regulations;
 - (e) for the constitution, for the purposes of the regulations, of such advisory committees as may be prescribed by the regulations, and for determining the manner in which the expenses of any such committees are to be defrayed.

(3) Regulations made for the purposes of this section may make different provision with respect to different areas and in particular may make special provision with respect to areas defined for the purposes of the regulations as areas of special control, being either rural areas or areas other than rural areas which appear to the Minister to require special protection on grounds of amenity; and without limiting the generality of the preceding provisions of this subsection, the regulations may prohibit the display in any such area of all advertisements except advertisements of such classes (if any) as may be specified in the regulations.

(4) Areas of special control for the purposes of regulations under this section may be defined either by reference to provisions included in that behalf in development plans or by such other means as may be specified in the regulations.

(5) Regulations made under this section may be made so as to apply to advertisements which are being displayed on the date on which the regulations come into operation or to the use for the display of advertisements of any site which was being used for that purpose on that date; but any regulations made in accordance with this subsection shall provide for exemption therefrom—

THE LAWS OF BARBADOS

- (a) the continued display of any such advertisement; and
- (b) the continued use for the display of advertisements of any such site,

during such period as may be prescribed in that behalf by the regulations, and different periods may be so prescribed for the purposes of different provisions of the regulations.

(6) Regulations made under this section may direct that any Act or statutory instrument affecting the display of advertisements which is in force on the day when the regulations made under this section come into operation shall not apply to the display of advertisements in any area to which the regulations apply.

Supple-
mentary
provisions as
to advertise-
ments.

32. (1) Where the display of advertisements in accordance with regulations made under section 31 involves the development of land within the meaning of this Act, planning permission for that development shall be deemed to be granted by virtue of this section, and no application is necessary in that behalf under the foregoing provisions of this Part.

(2) Without affecting any provisions included in regulations made under section 31 by virtue of paragraph (d) of subsection (2) of that section, any person who displays an advertisement in contravention of any of the provisions of the regulations is, subject to subsection (4), guilty of an offence and is liable on conviction thereof by a court of summary jurisdiction to a fine of two hundred and fifty dollars and, in case of a continuing offence, to a further fine of one hundred dollars for every day after the first day during which the display is continued.

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

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

(4) A person is not guilty of an offence under subsection (2) by reason only that an advertisement is displayed on land of which he is the owner or occupier or that his goods, trade,

business or other concerns are given publicity by the advertisement, if he proves that it was displayed without his knowledge or consent or that he took steps to remove the advertisement within a reasonable time after he became aware of its display.

DURATION AND TERMINATION OF PLANNING
PERMISSION

1981-44.

32A. (1) Subject to this section and to any directions given by the Minister, the Chief Town Planner may, having regard to the development plan and any other material consideration, where a planning permission has been granted before 29th October, 1981, serve a notice requiring that development permitted thereby shall be begun not later than the expiration of 2 years from the grant of permission, or 6 months after 29th October, 1981, whichever is the later.

Duration
of planning
permission.

1981-44.

(2) Subject to this section, every planning permission granted after 29th October, 1981 shall be deemed to have been granted subject to the condition that the development to which it relates shall be begun not later than the expiration of 2 years from the date of the permission.

(3) The Chief Town Planner may, having regard to the development plan and any other material consideration, attach to a planning permission a condition that the development to which it relates shall be begun not later than the expiration of such period, whether shorter or longer than 2 years, from the date of the permission as the Chief Town Planner considers appropriate.

(4) This section does not apply to

- (a) any outline planning permission within the meaning of section 32B;
- (b) any planning permission granted by a development order;
- (c) any planning permission granted for a limited period within the meaning of section 16;
- (d) any planning permission granted under section 22 on an application relating to buildings or works completed, or a use of land instituted, before the date of the application;

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- (e) any planning permission granted before 29th October, 1981 subject to the express condition that the development to which it relates shall be begun or completed not later than a date or within a period specified in the permission; and
- (f) a planning permission respecting the erection of a single residence.

Duration
of outline
planning
permis-
sion.

1981-44.

32B. (1) Subject to this section and to any direction given by the Minister, the Chief Town Planner may, having regard to the development plan and any other material consideration, where an outline planning permission has been granted before 29th October, 1981 and the development to which it relates has not been begun before 29th October, 1981, serve a notice requiring that

- (a) in the case of any reserved matter, application for approval be made not later than the expiration of 2 years from the date of the grant of outline planning permission or 6 months from 29th October, 1981, whichever is the later; and
- (b) the development to which the permission relates be begun not later than
 - (i) the expiration of four years from the date of the grant of outline planning permission or 6 months after 29th October, 1981, whichever is the later, or
 - (ii) the expiration of 2 years from the date of final approval of the reserved matters,whichever is the later.

(2) Subsection (1) does not apply to an outline planning permission granted before 29th October, 1981 subject to a condition that the development to which it relates shall be begun or completed, or that an application for approval of any reserved matter shall be made, not later than a date or within a period specified in the permission.

(3) Subject to this section, where an outline planning permission is granted after 29th October, 1981, that permission shall be deemed to have been granted subject to the following conditions:

- (a) that, in the case of any reserved matter, application for approval shall be made not later than the expiration of 2 years from the date of the grant of the permission; and
- (b) that the development to which the permission relates shall be begun not later than
 - (i) the expiration of 4 years from the date of the grant of the permission, or
 - (ii) the expiration of 2 years from the final approval of the reserved matters,whichever is the later.

(4) The Chief Town Planner may, having regard to the development plan and any other material considerations, in relation to any outline planning permission to which subsection (3) applies, give notice

- (a) substituting for any period referred to in that subsection such other period, whether longer or shorter, as he considers appropriate; or
- (b) specifying separate periods under paragraph (a) of that subsection in respect of separate parts of development to which the permission relates and,

in any such case, the conditions specified in paragraph (b) of that subsection have effect in respect of each of those parts and do not apply to the development as a whole.

(5) For the purposes of this section, "outline planning permission" means a planning permission granted in accordance with a development order with the reservation for subsequent approval by the Chief Town Planner or the Minister of matters, in this section referred to as "reserved matters", not particularised in the application.

32C. (1) For the purposes of sections 32A and 32B, development shall be taken to be begun on the earliest date on which any of the following operations comprised in the development to which a planning permission relates is started:

- (a) any work of construction that is in the course of the erection of a building;

Supplementary provisions to sections 32A and 32B.

1981-44.

- (b) the digging of a trench that is to contain the foundations or part of the foundations of a building;
- (c) the laying of any underground main pipe to the foundations or part of the foundations of a building or to any trench that is mentioned in paragraph (b);
- (d) any operation that is in the course of the laying out or constructing of a road or of part of a road;
- (e) any change in the use of any land where that change constitutes development.

(2) For the purposes of section 32B. (1) and (3), a reserved matter shall be treated as finally approved when an application for approval is granted, or, where a request for a review of a decision is made under section 19 and the Minister approves the application, on the date of the Minister's decision.

(3) For the purposes of sections 32A. (1) and 32B. (1), where the Chief Town Planner serves a notice, the notice

- (a) shall be served on the owner and occupier of the land to which it relates;
- (b) may, if the Chief Town Planner thinks fit, also be served on any other person having an interest in that land, being an interest that, in the opinion of the Chief Town Planner is materially affected by the notice.

(4) A notice referred to in subsection (3) must contain

- (a) the number of the application to which the notice relates;
- (b) brief particulars of the development that forms the subject of the application;
- (c) the address or location of the land to which the application relates;
- (d) the date on which the permission or approval is granted on the application;
- (e) the section, whether 32A.(1) or 32B. (1), under which it is served; and
- (f) the requirement that is to have effect and the date not later than which the requirement is to be complied with.

(5) Where any application is made after 29th October, 1981 and the applicant considers that the period or periods specified in sections 32A (2) and 32B (3) should not apply or should be varied, he shall, when making the application, in an accompanying letter

- (i) precisely state the reasons why the period or periods should not apply or should be varied, and
- (ii) request that the period or periods should not apply or should be varied.

(6) Where a request is made under subsection (5), the Chief Town Planner shall refer the application that it accompanies to the Minister for determination of the request.

(7) Where the Chief Town Planner serves a notice under section 32A. (1) or 32B. (1), any person having an interest in the land to which the notice relates who is aggrieved by the notice may request a review of the decision in accordance with section 19 as if the notice had been a grant by the Chief Town Planner of permission or approval subject to conditions.

(8) Every

- (a) notice served by the Chief Town Planner under section 32A. (1) or 32B. (1);
- (b) determination by the Minister of a request made under subsection (5); and
- (c) decision of the Minister on a request for review made under subsection (6),

shall be registered in the register kept by the Chief Town Planner under section 17(3) and is, upon registration, a charge on the land in respect of which the notice was served, the request was determined or the request for review was decided, as the case may be.

(9) Compensation under Part VI is not payable in respect of the application to any planning permission to any condition referred to in section 32A or 32B.

Termination of planning permission.

32D. (1) This section has effect where, under section 32A or 32B, a planning permission, whether granted before or after 29th October, 1981, is subject to a condition that the development to which the permission relates shall be begun before the expiration of a particular period and that development is begun within the period, but is not completed at the expiration thereof.

(2) Where, in the opinion of the Chief Town Planner, the development will not be completed within a reasonable period, he may serve a notice, in this section referred to as a "completion notice", stating that the planning permission ceases to have effect at the expiration of a further period specified in the notice, being a period of not less than 1 year after the notice takes effect.

(3) A completion notice

(a) shall be served on the owner and occupier of the land and on any other person who, in the opinion of the Chief Town Planner, will be affected by the notice; and

(b) takes effect only if and when it is confirmed by the Minister, who may, in confirming it, substitute some longer period for that specified in the notice as the period at the expiration of which the planning permission is to cease to have effect.

(4) Where within 28 days from the date of service of a completion notice any person on whom the notice is served so requires, the Minister, before confirming the notice, shall afford to that person and to the Chief Town Planner an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose.

(5) Where a completion notice takes effect, the planning permission referred to therein is, at the expiration of the period specified in the notice under subsection (2) or the longer period substituted by the Minister under subsection (3), as the case may be, invalid except in so far as it authorises any development already carried out thereunder at the expiration of that period.

(6) The Chief Town Planner may withdraw a completion notice at any time before it becomes invalid under subsection (5), and, if he does so, he shall thereupon serve notice of the withdrawal upon every person who was served with the completion notice.

32E. (1) Where 5 or more years expire before any development in respect of which a planning permission was granted takes place, that planning permission shall be deemed to have been revoked by the Chief Town Planner. Effect of certain failure to develop.

(2) Nothing in this section affects any entitlement to compensation under this Act.

PART IVA

2007-51.

PLANNING OBLIGATIONS

32F. (1) For the purposes of this Part, "planning obligation" means an agreement entered into pursuant to subsection (2). Planning obligations. 2007-51.

(2) Where a person applies to the Chief Town Planner for planning permission to develop land, that person may, by agreement with the Crown, enter into a planning obligation that

- (a) requires the provision of affordable housing to the satisfaction of the Minister responsible for Housing;
- (b) restricts the development or use of the land in any specified way;
- (c) requires specified operations or activities to be carried out in, on, under or over the land;
- (d) requires the land to be used in any specified way; or
- (e) requires any sum to be paid to the Ministry responsible for Housing, either periodically or on a specified date, where for any reason the developer cannot carry out the operations for the purposes of paragraph (a) and the Minister responsible for Housing undertakes to carry out the works on behalf of the developer.

(3) A planning obligation shall be enforceable to the extent mentioned in subsection (5).

(4) A planning obligation may

(a) be unconditional or subject to conditions;

(b) impose any restriction or requirement mentioned in subsection (2)(a) to (d), either indefinitely or for such period as may be specified; and

(c) require under, subsection (2)(e), the payment of a specified amount determined in accordance with the instrument by which the obligation is entered into; and the agreement may specify that the sum is payable on a specified date or for such period as is agreed.

(5) Subject to subsection (6), a planning obligation is enforceable

(a) against the person entering into the obligation; and

(b) against any person deriving title from that person.

(6) Notwithstanding subsection (5), the instrument by which a planning obligation is entered into may provide that a person shall not be bound by the obligation in respect of any period during which he no longer has an interest in the land.

(7) Where there is a breach of a requirement in a planning obligation to carry out any operations in, on, under or over the land to which the obligation relates, the Minister responsible for Housing

(a) may cause any person to enter the land and carry out the operations; and

(b) recover as a civil debt from the person against whom the obligation is enforceable any expenses reasonably incurred in doing so.

(8) Before the Minister responsible for Housing exercises his powers under subsection (7)(a) the Minister shall give not less than 21 days' notice of his intention to do so to any person against whom the planning obligation is enforceable.

(9) A planning obligation must be entered into by way of an instrument executed as a deed that

- (a) states that the obligation is a planning obligation for the purposes of this section;
- (b) identifies the land in respect of which the obligation is being made;
- (c) identifies the person entering into the obligation; and
- (d) states the interest that the person entering into the obligation has in the land.

(10) A planning obligation shall be a charge on the land to which it relates and shall be recorded in the Land Registry in accordance with section 71 or section 157 of the *Land Registration Act*, as the case may be. Cap. 229.

(11) For the purposes of subsection (1), "charge" means an interest in land securing the payment of money or money's worth or the fulfilment of an obligation arising under this Part, and includes a sub-charge and the instrument creating the charge.

(12) The Minister responsible for Housing shall establish guidelines setting out the policy relating to the provision of affordable housing under paragraph (a) of section 32F(2), and the guidelines shall include the following:

- (a) the basis on which the houses will be allocated;
- (b) the terms and conditions governing the sale of such houses;
- (c) the minimum standard of housing that must be provided; and
- (d) the minimum size of lots where land is to be provided.

(13) The guidelines referred to in subsection (12) and any amendments thereto shall be published by notice in the *Official Gazette* and in at least one daily newspaper published and circulated in Barbados; and shall be made available to the public by the Ministry at such fee as may be prescribed.

Modifica-
tion and
discharge of
planning
obligations.
2007-51.

32G. (1) A planning obligation may be modified

- (a) by an instrument executed as a deed between the parties to the agreement; or
- (b) in accordance with this section and section 32I.

(2) A planning obligation may be discharged in accordance with this section and section 32I.

(3) A person against whom a planning obligation is enforceable may, at any time after the expiry of the relevant period, apply to the Minister for the obligation

- (a) to have effect subject to such modifications as may be specified in the application; or
- (b) to be discharged.
- (4) For the purposes of subsection (3), "the relevant period" means
 - (a) such period as may be prescribed; or
 - (b) where no period is prescribed, the period of 5 years beginning with the date on which the obligation is entered into.

(5) Where an application is made under subsection (3), the Minister may determine

- (a) that the planning obligation shall continue to have effect without modification;
- (b) where the obligation no longer serves a useful purpose, that it shall be discharged; or
- (c) where the obligation continues to serve a useful purpose but would serve that purpose equally well if it had effect subject to the modifications specified in the application, that it shall have effect subject to those modifications.

(6) The Minister shall give notice of the determination made under subsection (5) to the applicant not later than 6 months after the application has been made.

(7) Where the Minister determines that a planning obligation shall have effect subject to any modification specified in the application, the obligation as modified shall be enforceable as if it had been entered into on the date on which notice of the determination was given to the applicant.

32H. (1) Regulations may make provision with respect to

Regulations.
2007-51.

- (a) the form and content of applications under section 32G(3);
- (b) the publication of notices of those applications;
- (c) the procedure for considering any representations made with respect to those applications; and
- (d) the notice to be given to applicants in respect of a determination made under section 32G(6).

(2) The Minister may make regulations to provide for anything that is necessary to give effect to planning obligations under this Part.

32I. (1) Where the Minister

Appeals.
2007-51.

- (a) fails to give notice of a determination as mentioned in section 32G(6); or
- (b) determines that a planning obligation shall continue to have effect without modification,

the applicant may appeal to a Judge in chambers.

(2) For the purposes of an appeal under paragraph (a) of subsection (1), it shall be assumed that the Minister has determined that the planning obligation shall continue to have effect without modification where no notice has been served on the applicant within the time specified in section 32G(6).

(3) An appeal under this section shall be made by notice served within 28 days of whichever of the following is applicable:

- (a) the date that notification of the decision is given under section 32G(6); or

- (b) the expiration of the period mentioned in section 32G(6).

PART V

Enforcement of Planning Control

ENFORCEMENT WHERE PLANNING PERMISSION
REQUIRED

Power to
serve
enforcement
notices.

33. (1) Where it appears to the Chief Town Planner

- (a) that any development of land has been carried out without the grant of planning permission required in that behalf in accordance with Part IV; or
- (b) that any conditions or limitations subject to which planning permission was granted have not been complied with,

then, subject to any directions given by the Minister and to the following provisions of this section, the Chief Town Planner, if he considers it expedient to do so having regard to the provisions of the development plan and to any other material considerations, may, within the period specified in sub-section (2), serve a notice under this section (in this Act referred to as an enforcement notice).

(2) The period for service of an enforcement notice,

- (a) where the notice relates to the carrying out of development, is the period of 4 years from the carrying out of the development; and
- (b) where the notice relates to non-compliance with a condition or limitation, is the period of 4 years from the date of the alleged failure to comply with it.

(3) Where the Chief Town Planner serves an enforcement notice, the notice

- (a) shall be served on the owner and occupier of the land to which it relates; and

(b) may, if the Chief Town Planner thinks fit, also be served on any other person having an interest in that land, being an interest which in his opinion is materially affected by the notice.

(4) An enforcement notice

(a) shall specify the development which is, alleged to have been carried out without the grant of planning permission as mentioned in paragraph (a) of subsection (1) or, as the case may be, the matter in respect of which it is alleged that any such conditions or limitations as are mentioned in paragraph (b) of that subsection have not been complied with; and

(b) may require such steps as may be specified in the notice to be taken, within such period as may be so specified, for the purpose of restoring the land to its condition before the development took place or of securing compliance with the conditions or limitations, as the case may be, and in particular may, for that purpose, 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.

(5) Subject to this Part, an enforcement notice takes effect on the expiration of 28 days from the date of the service of the notice. 1981-44.

34. (1) Any person on whom an enforcement notice is served may, within the period mentioned in subsection (5) of section 33, apply to the Chief Town Planner in accordance with Part IV for planning permission

Applica-
tions for
permission
to retain
develop-
ment or
continue
use after
service of
enforce-
ment
notice.

(a) for the retention on the land of any buildings or works to which the enforcement notice relates; or

(b) for the continuance of any use of the land to which the enforcement notice relates,

and, if the application is made within the period mentioned in subsection (5) of section 33, the enforcement notice shall be of no effect pending the final determination of the application.

(2) Where planning permission is granted for the retention on land of buildings or works or for the continuance of a use of land to which the enforcement notice relates, the enforcement notice shall cease to have effect in so far as it requires steps to be taken for the demolition or alteration of those buildings or works or the discontinuance of that use, as the case may be.

(3) Where the planning permission as granted as mentioned in subsection (2) is granted so as to permit the retention of buildings or works or the continuance of a use of land without complying with some condition subject to which a previous planning permission was granted, the enforcement notice shall cease to have effect in so far as it requires steps to be taken for complying with that condition.

Appeal to
Judge in
chambers
against
enforce-
ment
notice.

35. (1) Any person on whom an enforcement notice is served, or any other person having an interest in the land, may, at any time within the period mentioned in subsection (5) of section 33 and in accordance with any rules of court, appeal to a Judge in chambers against the notice on any of the following grounds:

- (a) that planning permission has been granted for the development to which the enforcement notice relates;
- (b) that no planning permission was required in respect of that development or, as the case may be, that the conditions or limitations subject to which planning permission for that development was granted have been complied with;
- (c) that what is assumed in the enforcement notice to be development did not constitute or involve development;
- (d) that the enforcement notice was not served on the owner or occupier of the land within the relevant period of 4 years specified in subsection (2) of section 33;
- (e) that the requirements of the enforcement notice exceed what is necessary for restoring the land to its condition before the development in question took place or, as the case may be, for securing compliance with the conditions or limitations to which the enforcement notice relates;

(f) that the period specified in the enforcement notice as the period within which any steps required by that notice are to be taken falls short of what should reasonably be allowed.

(2) Where an appeal is brought under this section the enforcement notice shall be of no effect pending the final determination or withdrawal of the appeal.

(3) On the determination of an appeal under this section the Judge shall give directions for giving effect to his determination, including, where appropriate, directions for quashing the enforcement notice to which the appeal relates or for varying the terms of the notice in favour of the appellant.

(4) On an appeal under this section the Judge may correct any informality, defect or error in the enforcement notice if he is satisfied that the informality, defect or error is not a material one.

(5) Where an enforcement notice is varied or the appeal is dismissed, then, without prejudice to subsection (1) of section 34, the Judge may, if he thinks fit, direct that the enforcement notice shall not come into force until such date (not being later than 28 days from the determination of the appeal) as he thinks fit.

(6) On the determination of an appeal under this section the appellant or the Chief Town Planner may appeal to the Court of Appeal against the decision of the Judge.

36. (1) Subject to this section, where an enforcement notice has been served on the person who, at the time when the notice was served on him, was the owner of the land to which it relates, then, if any steps required by the notice to be taken (other than the discontinuance of a use of land) have not been taken within the period allowed for compliance with the notice, that person is guilty of an offence and is liable on conviction thereof by a court of summary jurisdiction to a fine of \$1 000.

Penalties
for non-
compliance
with
enforce-
ment
notices.

1981-44.

(2) Where a person against whom proceedings are brought under subsection (1) has, at some time before the end of the period allowed for compliance with the notice, ceased to be the owner of the land, he is, upon information duly laid by him and on giving to the prosecution not less than 3 clear days' notice of his intention, entitled to have the person who then became the owner of the land (in this section referred to as the subsequent owner) brought before the court in the proceedings.

(3) Where, after it has been proved that any steps required by the enforcement notice have not been taken within the period allowed for compliance with the notice, the original defendant proves that the failure to take steps was attributable, in whole or in part, to the default of the subsequent owner

- (a) the subsequent owner may be convicted of the offence; and
- (b) the original defendant, if he further proves that he took all reasonable steps to secure compliance with the enforcement notice, shall be acquitted of the offence.

1981-44.

(4) Where, after a person has been convicted under the preceding provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the enforcement notice, he is guilty of a further offence and is liable on conviction thereof by a court of summary jurisdiction to a fine of \$250 for each day following his first conviction on which any of the requirements of the enforcement notice (other than the discontinuance of a use of land) remain unfulfilled.

(5) Where, by virtue of an enforcement notice, a use of land is required to be discontinued or any conditions or limitations are required to be complied with in respect of a use of land or in respect of the carrying out of operations thereon, then any person who uses the land or causes or permits it to be used or carries out those operations or causes or permits them to be carried out, in contravention of the

notice, is guilty of an offence and on conviction thereof by a court of summary jurisdiction is liable to a fine of \$500; and if the use is continued after the conviction he is guilty of a further offence and on conviction thereof by a court of summary jurisdiction is liable to a fine of \$100 for every day on which the use is so continued.

(6) Any reference in this section to the period allowed for compliance with an enforcement notice is a reference to the period specified in the notice for compliance therewith, or such extended period as the Chief Town Planner may allow for compliance with the notice.

(7) For the purposes of this section, the expression "owner" in relation to any land means a person, other than a mortgagee not in possession, who, whether in his own right or as trustee for any person, is entitled to the receipt of the rents and profits or, where the land is not let at a rent, would be so entitled if it were so let.

37. (1) Where within the period specified in an enforcement notice for compliance therewith, or within such extended period as the Chief Town Planner may allow, any steps required by the notice to be taken (other than the discontinuance of a use of land) have not been taken, the Chief Town Planner or a person authorised by him in writing may enter upon the land and take those steps; and the Chief Town Planner may recover as a civil debt from the person who is then the owner of the land any expenses reasonably incurred in that behalf.

Execution
by Chief
Town
Planner of
work
required by
enforce-
ment
notice.

(2) Where the person to whom subsection (1) refers was entitled to appeal to a Judge in chambers under section 35 but failed to make such an appeal, he is not entitled in proceedings under this section to dispute the validity of the action taken by the Chief Town Planner upon any ground that could have been raised on such an appeal.

Supplemen-
tary
provisions
as to
enforce-
ment
notices.

38. (1) Any expenses incurred by the owner or occupier of any land for the purpose of complying with an enforcement notice served in respect of any development and any sums paid by the owner of any land under section 37 in respect of expenses incurred by the Chief Town Planner in taking steps required to be taken by such a notice shall be deemed to be incurred or paid for the use and at the request of the person by whom the development was carried out.

(2) The Chief Town Planner may sell any materials which have been removed from any land, including any street, when taking steps required to be taken by an enforcement notice and which are not before the expiration of 7 clear days from the date of their removal claimed by the owner and taken away by him.

(3) Where the Chief Town Planner sells any materials under this section, he shall pay the proceeds to the person to whom the material belonged after deducting the amount of any expenses recoverable by him from that person.

(4) Where, on a complaint made by the owner of any land to the magistrate of the district in which the land is situated, it appears to the magistrate that a person having an interest in the land other than the owner of that land prevents the owner from taking any steps referred to in subsection (2), the magistrate may order the person to permit the taking of such steps.

(5) Where the Chief Town Planner is empowered to take any steps referred to in subsection (2) and to recover from any person the expenses incurred by him in so doing, he may include in, and recover as part of, the expenses such additional sum not exceeding five per cent of the cost of the works, as he thinks fit, by way of an administrative charge.

(6) Where the Chief Town Planner claims to recover any expenses incurred in the taking of any steps referred to in subsection (2) from a person as being the owner of the land in respect of which the expenses were incurred and that person proves that he—

- (a) is receiving the rent of that land merely as agent or trustee for some other person; and
- (b) has not and, since the date of the service on him of a demand for payment, has not had in his hands for that other person sufficient money to discharge the whole demand of that office,

his liability shall be limited to the total amount of the money which he had or has had in his hands as aforesaid, but the Chief Town Planner may recover the whole of any unpaid balance from the person on whose behalf the agent or trustee receives the rent.

39. Nothing contained in this Part shall be construed as requiring planning permission to be obtained under Part IV for the use of any land for the purpose for which it could law-

Saving of
existing
uses.

THE LAWS OF BARBADOS

fully have been used if the development in respect of which an enforcement notice is served had not been carried out.

Enforcement
notice to have
effect against
subsequent
develop-
ment.

40. (1) Compliance with an enforcement notice, whether in respect of—

- (a) the demolition or alteration of any buildings or works; or
- (b) the discontinuance of any use of land; or
- (c) any other requirements contained in the enforcement notice,

shall not discharge the enforcement notice.

(2) Without prejudice to subsection (1), any provision of an enforcement notice requiring a use of land to be discontinued shall operate as a requirement that it shall be discontinued permanently, to the extent that the use is in contravention of Part IV, and accordingly the resumption of that use at any time after it has been discontinued in compliance with the enforcement notice shall to that extent be in contravention of the enforcement notice.

(3) Without prejudice to subsection (1), if any development is carried out on land by way of re-instating or restoring buildings or works which have been demolished or altered in compliance with an enforcement notice, the notice shall, notwithstanding that its terms are not apt for the purpose, be deemed to apply in relation to the buildings or works as re-instated or restored as it applied in relation to the buildings or works before they were demolished or altered, and subject to subsection (4), section 37 and subsection (1) of section 38 shall apply accordingly.

(4) Where, at any time after an enforcement notice takes effect—

- (a) any development is carried out by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with the notice, and
- (b) the Chief Town Planner proposes, under section 37, to take any steps required by the enforcement notice for the demolition or alteration of the buildings or works in consequence of the reinstatement or restoration,

the Chief Town Planner shall, not less than 28 days before taking any steps, serve on the owner and occupier of the land a notice of his intention to take those steps.

(5) Any person who, without the grant of planning permission in that behalf, carries out any development on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with an enforcement notice, is guilty of an offence and is liable on conviction thereof by a court of summary jurisdiction to a fine of \$500; but no person may be convicted of an offence under any of the provisions of subsections (1), (2), (3) or (4) of section 36 for failure to take any steps required to be taken by an enforcement notice by way of demolition or alteration of what has been so reinstated or restored.

(6) This section applies in relation to an enforcement notice served before the 8th July, 1968, as well as in relation to one served after the date.

40A. (1) The Chief Town Planner may at anytime revoke an enforcement notice but without affecting his power to serve another enforcement notice.

Revocation
of enforce-
ment
notice.
1981-44.

(2) Where the Chief Town Planner revokes an enforcement notice under subsection (1), he shall thereupon serve notice of the revocation on every person who was served with the enforcement notice.

40B. (1) Where, in respect of any land, the Chief Town Planner serves an enforcement notice, he may, subject to any direction given by the Minister, at any time before that notice takes effect, serve a further notice, in this section and section 40C referred to as a, "stop notice", prohibiting any person on whom the stop notice is served from carrying out or continuing on the land any operations, being operations alleged in the enforcement notice to constitute a breach of planning control or so closely associated therewith as to constitute substantially the same operations.

Stop
notices.

1981-44.

(2) A stop notice served under subsection (1) must contain a reference to, and have annexed to it, a copy of the enforce-

ment notice served in respect of the land to which the stop notice relates.

(3) A stop notice may be served by the Chief Town Planner on any person who appears to him to have an interest in the land or to be concerned with the carrying out or continuance of any operations thereon.

(4) A stop notice

(a) takes effect from the date of its service; and

(b) without affecting subsection (7), ceases to have effect when

(i) a person is convicted of an offence under section 36 or the Chief Town Planner enters upon the land under section 37, whichever is the earlier,

(ii) the enforcement notice to which it refers is revoked under section 40A or quashed by directions of a Judge under section 35(3), or

(iii) permission is granted for the retention of the buildings, works or operations in accordance with section 34.

(5) Any person, being a person in relation to whom a stop notice is in effect, who carries out or continues, or causes or permits to be carried out or continued, any operations prohibited by the notice is guilty of an offence and is liable on summary conviction to a fine of \$1 000, and, if the offence is a continuing offence, to a fine of \$250 for each day or part thereof during which the offence is continued after he is first convicted.

(6) A stop notice is not invalid because the enforcement notice to which it refers was not served as required by section 33(3) if it is shown that the Chief Town Planner took all such steps as were reasonably practicable to effect proper service.

(7) The Chief Town Planner may at any time revoke a stop notice, but without affecting his power to serve another stop notice.

(8) Where the Chief Town Planner revokes a stop notice under subsection (7), he shall thereupon serve a notice of the revocation on every person who was served with the stop notice.

(9) Where a person, in this subsection referred to as "the contractor", is under contract to another person, in this subsection referred to as "the developer" to carry out any operations on land and

- (a) a stop notice takes effect in relation to the contractor or to the developer or to both of them prohibiting the carrying out or continuing of those operations; and
- (b) the operations are countermanded or discontinued by the contractor accordingly,

then, unless and in so far as the contract explicitly provides to the contrary, the developer is under the same liability in contract as if the operations were countermanded or discontinued on instructions given by him in breach of the contract.

(10) Subsection (9) applies only to contracts entered into on or after 29th October, 1981.

40C. (1) Where a stop notice ceases to have effect, a person who, at the time when it was first served, had an interest in the land to which it relates is, in any of the circumstances mentioned in subsection (2), entitled to be compensated by the Crown in respect of any loss or damage directly attributable to the prohibition contained in the notice.

Compensation for loss due to stop notice.
1981-44.

(2) A person is entitled to compensation under subsection (1) where

- (a) the enforcement notice to which the stop notice refers is quashed on any ground specified in paragraphs (a) to (d) of section 35(1);
- (b) the allegation in the enforcement notice upon which the prohibition contained in the notice is dependent is not upheld because the enforcement notice is varied on any ground mentioned in paragraph (a);

(c) the enforcement notice is revoked by the Chief Town Planner otherwise than in consequence of the grant by him of planning permission for the development to which the notice relates or for its retention or continuance without compliance with a condition or limitation subject to which a previous planning permission was granted;

(d) the stop notice is revoked.

(3) A prohibition contained in a stop notice shall be treated for the purposes of paragraph (b) of subsection (2) as dependent upon all allegations in an enforcement notice if and to the extent that the operations prohibited by the stop notice are the same as those alleged in the enforcement notice to constitute a breach of planning control or are so closely associated with those operations as to constitute substantially the same operations.

(4) A claim for compensation under this section must be made to the Minister within such time and in such manner as are prescribed.

(5) The loss or damage in respect of which compensation is payable under this section in respect of a prohibition includes a sum payable for a breach of contract caused by the taking of action necessary to comply with that prohibition and any liability arising by virtue of section 40B.

(6) Compensation payable under this section shall, in default of determination by agreement, be determined in accordance with the procedure laid down in the *Land Acquisition Act*.

Cap. 228.

ENFORCEMENT OF CONTROL UNDER SECTION 26

Penalty
for non-
compliance
with notice
under sec-
tion 26.

1968-14.

41. This section shall have effect where a notice has been served under section 26 and the period within which the steps required by the notice are to be taken has expired.

(2) Where at any time after the end of that period any of those steps have not been taken and any person does anything which has the effect of continuing or aggravating the injury caused by the condition of the building or other land to which

the notice relates, he is guilty of an offence and is liable on conviction thereof by a court of summary jurisdiction to a fine of \$100.

42. (1) A person on whom a notice under section 26 is served or any other person having an interest in the building or other land to which the notice relates may, at any time within the period specified in the notice as the period at the end of which it is to take effect and in accordance with any rules of court, appeal to a Judge in chambers against the notice on any of the following grounds

Appeal to Judge in chambers against notice under section 26.

1968-14.

- (a) that the condition of the building or other land to which the notice relates does not seriously injure the amenity of any part of Barbados or is not likely to do so;
- (b) that the condition of the building or other land to which the notice relates is attributable to, and is such as results in the ordinary course of events from, the carrying on of operations or a use of land which is not in contravention of Part IV;
- (c) that the land to which the notice relates does not constitute a garden, vacant site or other open land;
- (d) that the requirements of the notice exceed what is necessary for preventing the condition of the building or other land from seriously injuring the amenity of any part of Barbados;
- (e) that the period specified in the notice as the period within which any steps required by the notice are to be taken falls short of what should reasonably be allowed.

1968-14.

(2) Where an appeal is brought under this section the notice to which it relates shall be of no effect pending the final determination or withdrawal of the appeal.

(3) On an appeal under this section the Judge may correct any informality, defect or error in the notice to which it relates if satisfied that the informality, defect or error is not a material one.

(4) On the determination of an appeal under this section the Judge shall give directions for giving effect to his determination, including, where appropriate, directions for quashing the notice or for varying the terms of the notice in favour of the appellant.

(5) Where the notice to which the appeal relates is varied or the appeal is dismissed, the Judge may, if he thinks fit, direct that the notice shall not come into force until such date (not being later than 28 days from the determination of the appeal) as he thinks fit.

(6) On the determination of an appeal under this section the appellant or the Chief Town Planner may appeal to the Court of Appeal against the decision of the Judge.

43. Where, within the period specified in a notice under section 26 in accordance with subsection (1) of that section or within such extended period as the Chief Town Planner may allow, any steps required by the notice to be taken have not been taken, the Chief Town Planner, or a person authorised by him in writing, may enter upon the land and take those steps; and the Chief Town Planner may recover as a civil debt from the person who is then the owner of the land any expenses reasonably incurred in that behalf.

Execution by Chief Town Planner of work required by notice under section 26.

44. (1) Any expenses incurred by the owner or occupier of any building or other land for the purpose of complying with a notice under section 26 and any sums paid by the owner of any building or other land under section 43 in respect of expenses incurred by the Chief Town Planner in taking steps required to be taken by such a notice shall be deemed to be incurred or paid for the use and at the request of the person who caused or permitted the building or other land to come to be in the condition in which it was when the notice was served.

Supplementary provisions as to notices under section 26.

1968-14.

(2) Subsections (2), (3), (4), (5) and (6) of section 38 shall have effect in relation to notices under section 26 as if any reference therein to an enforcement notice were a reference to a notice under the said section 26.

ENFORCEMENT OF CONTROL IN RESPECT OF LISTED BUILDINGS

45. (1) Where any works have been carried out in contravention of subsection (1) of section 30, the Chief Town Planner may serve on the owner and occupier of the building a notice requiring such steps for restoring the building to its former state as may be specified in the notice to be taken within such period as may be so specified.

Notice to enforce control under section 30.

(2) Subject to section 46, a notice under this section shall take effect at the end of such period (not being less than twenty-eight days after the service thereof) as may be specified in the notice.

(3) Without prejudice to subsections (1) and (2), any person who contravenes any of the provisions of subsection (1) of

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section 30 is guilty of an offence and is liable on conviction thereof by a court of summary jurisdiction to a fine of five hundred dollars.

Appeal to
Judge in
chambers
against notice
under section
45.

46. (1) A person on whom a notice under section 45 is served, or any other person having an interest in the building to which such a notice relates, may, at any time within the period specified in the notice as the period at the end of which it is to take effect and in accordance with any rules of court, appeal to a Judge in chambers against the notice on any of the following grounds—

- (a) that the works to which the notice relates were not, or were not wholly, works in contravention of subsection (1) of section 30;
- (b) that the works to which the notice relates were urgently necessary in the interests of safety or health or for the preservation of the building or of neighbouring property and that notice thereof had been given to the Chief Town Planner;
- (c) that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works to which the notice relates were carried out;
- (d) that the period specified in the notice as the period within which any steps required by the notice are to be taken falls short of what should reasonably be allowed;
- (e) that any of the steps required by the notice to be taken would not serve the purpose of restoring the character of the building to what it was before the works to which the notice relates were carried out.

(2) Where an appeal is brought under this section the notice to which it relates shall be of no effect pending the final determination or withdrawal of the appeal.

(3) On an appeal under this section the Judge may correct any informality, defect or error in the notice to which it relates

if satisfied that the informality, defect or error is not a material one.

(4) On the determination of an appeal under this section the Judge shall give directions for giving effect to his determination, including, where appropriate, directions for quashing the notice or for varying the terms of the notice in favour of the appellant.

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

(6) On the determination of an appeal under this section the appellant or the Chief Town Planner may appeal to the Court of Appeal against the decision of the Judge.

47. Where, within the period specified in a notice under section 45 in accordance with subsection (1) of that section or within such extended period as the Chief Town Planner may allow, any steps required by the notice to be taken have not been taken, the Chief Town Planner, or a person authorised by him in writing, may enter upon the land and take those steps; and the Chief Town Planner may recover, as a civil debt, from the person who is then the owner of the land any expenses reasonably incurred in that behalf.

Execution
by Chief
Town
Planner of
work
required by
notice under
section 45.

48. (1) Any expenses incurred by the owner or occupier of a building for the purpose of complying with a notice under section 45 and any sums paid by the owner of a building under section 47 in respect of expenses incurred by the Chief Town Planner in taking steps required to be taken by such a notice shall be deemed to be incurred or paid for the use and at the request of the person who carried out the works to which the notice relates.

Supple-
mentary
provisions as
to notices
under
section 45.

(2) Subsections (2), (3), (4), (5) and (6) of section 38 shall have effect in relation to notices under section 45 as if any

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reference therein to an enforcement notice were a reference to a notice under the said section 45.

ENFORCEMENT OF ORDERS UNDER SECTION 25

Penalty for
contravening
orders under
section 25.

49. (1) Where, by virtue of an order under section 25, the use of land for any purpose is required to be discontinued or any conditions are imposed on the continuance thereof, then any person who, without the grant of planning permission in that behalf, uses the land for that purpose or, as the case may be, uses the land for that purpose in contravention of those conditions or causes or permits the land to be so used is guilty of an offence and is liable on conviction by a court of summary jurisdiction to a fine of one hundred dollars for every day on which the use is so continued.

(2) Where within the period specified in that behalf in an order under section 25, any steps required by that order to be taken for the alteration or removal of any buildings or works have not been taken, the Chief Town Planner may, and shall if so required by directions of the Minister, enter upon the land and take these steps.

(3) Subsections (2), (3), (4), (5) and (6) of section 38 shall have effect in relation to orders under section 25 as if any reference therein to an enforcement notice were a reference to an order under section 25.

PART VI

Acquisition and Disposal of Land for Planning Purposes

Acquisition
of land.

1968-14.

Cap. 228.

50. (1) Where any land is designated by a development plan as subject to compulsory acquisition by the Crown, the land may be acquired by the Crown compulsorily in accordance with the Land Acquisition Act as being land needed for public purposes within the meaning of that Act.

(2) Nothing in this section shall be deemed to prevent the acquisition by agreement of any land designated as mentioned in subsection (1).

51. (1) Any statutory board may, with the approval of the Minister, appropriate for any purpose specified in a development plan any land for the time being held by it for other purposes.

Appropriation of land of statutory boards. 1968-14.

(2) On the appropriation of land under this section, there shall be made in the accounts of the statutory board such adjustments as the Minister responsible for that statutory board may direct.

52. Any land acquired by the Crown (whether compulsorily or by agreement) under this Part may be disposed of in accordance with the Crown Lands (Vesting and Disposal) Act to any statutory board, statutory undertakers or other body or person for development in accordance with planning permission granted under Part IV.

Disposal of land. 1968-14. Cap. 225.

53. (1) The Minister may from time to time by order published in the *Official Gazette* direct that, for the purpose of the compulsory acquisition of land under this Part, the provisions of the Land Acquisition Act shall have effect subject to such modifications and adaptations as may be set out in any such order.

Power to modify provisions of Land Acquisition Act. Cap. 228.

(2) Every order made under subsection (1) shall be subject to negative resolution.

1968-14.

PART VII

Compensation for Refusal or Conditional Grant of Planning Permission

54. (1) For the purposes of this Part, the expression—
“interest” (where the reference is to an interest in land) means the fee simple or a tenancy of land, but does not include any other interest therein;

Definition of expressions for purposes of Part VII.

“planning decision” means—

(a) in the case of an application for planning permission made under Part IV to the Chief Town Planner, a

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refusal by that officer of planning permission or a grant thereof by that officer subject to conditions;

- 1968-14.
- (b) in the case of an application for planning permission made under Part IV to the Chief Town Planner and referred to the Minister under section 18, a refusal of that permission by the Minister or a grant thereof by the Minister subject to conditions;
 - (c) in the case of an application for planning permission under Part IV to the Chief Town Planner, a refusal of that permission by the Minister or a grant thereof by the Minister subject to conditions, on a reference under section 19 of the decision of the Chief Town Planner for review by the Minister.

(2) With respect to references in this Act to planning decisions—

- 1968-14.
- (a) in relation to a decision altered on review under section 19 by the reversal or variation of the whole or part thereof, such references are references to the decision as so altered;
 - (b) in relation to a decision confirmed on review under section 19, such references are references to the decision of the Chief Town Planner and not to the decision of the Minister on the review;
 - (c) in relation to a decision given on review in the circumstances mentioned in section 20, such references are references to the decision so given;
 - (d) the time of a planning decision, in a case where there is or was a request for a review under section 19, shall be taken to be or to have been the time of the decision as made by the Chief Town Planner (whether or not that decision is or was altered on that review) or, in the case of a decision given on review in the circumstances mentioned in section 20, the time when in accordance with that section notification of a decision of the Chief Town Planner is deemed to have been received.

Right to
compensation
for planning
decisions.

55. (1) Where on a claim made to the Minister in the manner prescribed by regulations, it is shown that, as a result

of a planning decision involving a refusal of planning 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, subject to this Part, that person is entitled to compensation and the Minister shall cause to be paid to that person compensation of an amount equal to the difference.

(2) Compensation under this section for planning decisions shall be assessed in accordance with the provisions of the Land Acquisition Act. Cap. 228.

(3) In determining for the purposes of this section to what extent, if any, the value of any interest in land is less than it would have been if the planning permission referred to in subsection (1) had been granted or had been granted subject to conditions, it shall be assumed that any subsequent application for planning permission in respect of that land would be determined in the same way, but where, on the refusal of planning permission for the development in respect of which application is made, the Chief Town Planner undertakes to grant planning permission for any other development of land in the event of an application being made in that behalf, regard shall be had to the undertaking in determining the matter aforesaid. 1968-14.

56. (1) Compensation under this Part is not payable—

- (a) in respect of the refusal of planning permission for any development that consists of or includes the making of any material change in the use of any land or buildings;
- (b) in respect of the refusal of planning permission if the reason or one of the reasons stated for the refusal is that development of the kind proposed would be premature by reference to either or both of the following matters—
 - (i) the order of priority for development in the area in which the land is situated, if any such order is indicated in the development plan for that area;

No compensation payable in certain cases.

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- (ii) any existing deficiency in the provision of water supplies or sewerage 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 land if the reason or one of the reasons stated for the refusal is that the land is unsuitable for the proposed development on account of its liability to flooding or to subsidence;
 - (d) in respect of the imposition, on the granting of planning permission, of any condition relating to—
 - (i) the number or disposition of buildings on any land;
 - (ii) the dimensions, 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 provisions of facilities for the parking, loading, unloading or fuelling of vehicles on the land;
 - (iv) the use of any buildings or other land; or
 - (v) the location or design of any means of access to a road or the materials to be used in the construction thereof;
 - (e) in respect of any condition subject to which planning permission is granted for the winning and working of minerals;
 - (f) in respect of any planning decision on an application pursuant to regulations under section 31 for consent to the display of advertisements.
- (2) For the purposes of this section, a planning decision whereby permission to develop land is granted subject to a condition prohibiting development of a specified part of that land shall be treated as a decision refusing the permission as respects that part of the land.

No compensation if other development permitted.

57. (1) Compensation under this Part is not payable in respect of a planning decision whereby permission to develop land is refused if, notwithstanding that refusal, there is available

with respect to that land planning permission for development to which this section applies.

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

(3) Where a claim for compensation under this Part is made in respect of an interest in any land, planning permission for development to which this section applies shall be taken for the purposes of this section to be available with respect to that land or a part thereof if, immediately before the Minister gives notice of his findings in respect of that claim, there is in force, with respect to that land or part, a grant of, or an undertaking by the Minister to grant, planning permission for some such development, subject to no conditions other than such as are mentioned in paragraph (d) of subsection (1) of section 56.

(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.

58. (1) Compensation under this Part is not payable unless a claim for it is made before the end of the period of twelve months beginning with the date of the planning decision to which it relates, but the Minister 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.

General provisions as to claims for compensation.

- (2) The Minister may make regulations under this section—
 - (a) requiring claims for compensation under this Part to be made in a form prescribed by the regulations;
 - (b) requiring a claimant to provide the Minister with such evidence in support of the claim, and with 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 so prescribed.

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Cap. 228.

(3) Compensation payable under this Part shall, in default of determination by agreement, be determined in accordance with the procedure laid down in the Land Acquisition Act.

Review of
planning
decisions
where com-
pensation
claimed.

59. (1) Where a claim for compensation is made under this Part, then if it appears to the Minister that planning permission could properly be granted (either unconditionally or subject to certain conditions) for some development of the land in question other than the development to which the application for planning permission related, the Minister may give directions that this Act shall have effect in relation to that application and to the planning decision—

- (a) as if the application had included an application for permission for that other development and the decision had included the grant of permission (unconditionally or subject to the same conditions, as the case may be) for that development; or
- (b) as if the decision had included an undertaking to grant permission (unconditionally or subject to the same conditions, as the case may be) for that development, as may be specified in the directions.

(2) In giving any directions under this section, the Minister shall have regard—

- (a) to the provisions of the development plan for the area in which the land in question is situated; or
- (b) where a development plan has not yet come into operation with respect to that area, to such provisions as, in his opinion, will be required to be included in a development plan for securing the proper planning of that area,

so far as those provisions are material to the development of that land and shall also have regard to the local circumstances affecting the proposed development, including the use which prevails generally in the case of contiguous or adjacent land, and to any other material considerations.

Acquisition
of land in
lieu of com-
pensation.

60. Where a claim for compensation under this Part in respect of any interest in land has been determined in accordance with section 58, the Minister may, within one month after the date of the determination of such compensation and

instead of having the same paid, cause to be made an offer in writing to purchase the interest in land to which the claim for compensation relates, and if the person entitled to that interest is unwilling to sell the same the Minister may forthwith cause the interest to be acquired compulsorily under and in accordance with the Land Acquisition Act, as an interest in land needed for public purposes within the meaning of that Act. Cap. 228.

PART VIII

Compensation for Other Planning Restrictions

61. (1) Where planning permission is revoked or modified by an order under section 24, then if on a claim made to the Minister within the time and in the manner prescribed by regulations, it is shown that any person having an interest in the land—

Compensation where planning permission revoked or modified.

- (a) has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification; or
- (b) has otherwise sustained loss or damage that is directly attributable to the revocation or modification,

then, subject to this section, the Minister shall cause to be paid to that person compensation in respect of that expenditure, loss or damage.

(2) 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 taken to be included in the expenditure incurred in carrying out that work.

(3) Except as is provided in subsection (2), no compensation is payable under this section in respect of any work carried out before the grant of the permission which is revoked or modified or in respect of any loss or damage (not being loss or damage consisting of depreciation of the value of an interest in land) arising out of anything done or omitted to be done before the grant of that permission.

(4) Where, by virtue of this section, compensation is pay-

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able in respect of expenditure incurred in carrying out any work on land, then if any interest in that land is purchased pursuant to section 60 or a claim for compensation is made in respect of any such interest under section 55, 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 55, shall be reduced by an amount equal to the value of the works in respect of which compensation is payable under this section.

(5) In calculating, for the purposes of this section, the amount of any loss or damage consisting of depreciation of the value of an interest in land as a result of the revocation of any planning permission relating to that land or the modification thereof by the imposition of conditions, it shall be assumed that any subsequent application for planning permission in respect of that land would be refused or, as the case may be, granted subject to the same conditions but where, on the revocation of the planning permission, the Chief Town Planner undertakes to grant planning 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 calculating the matter aforesaid.

(6) In this Part any reference to an order under section 24 includes a reference to an order under that section as applied by subsection (2) of section 25.

Application
of section 61
to special
cases of
refusal or
conditional
grant of
planning
permission.

62. (1) This section shall have effect where—

- (a) planning permission for the development of land has been granted by a development order; and
- (b) that permission is withdrawn, whether by the revocation or amendment of the order or by the issue of directions under powers in that behalf conferred by the order; and
- (c) on an application made in that behalf under Part IV, planning permission for that development is refused or is granted subject to conditions other than those previously imposed by the development order.

(2) In any case falling within subsection (1), section 61 shall apply as if the planning permission granted by the development order—

- (a) had been granted by the Chief Town Planner under Part IV; and
- (b) had been revoked or modified by an order under section 24.

63. (1) This section shall have effect where an order is made under section 25 requiring a 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.

Compensation in respect of orders under section 25.

(2) Where, on a claim made to the Minister within the time and in the manner prescribed by regulations, it is shown that any person has suffered damage in consequence of the order by depreciation of the value of an interest in the land to which he is entitled or being disturbed in his enjoyment of the land, the Minister shall cause to be paid to that person compensation in respect of that damage.

(3) Without prejudice to subsection (2), any person who carries out any works in compliance with the order is entitled, on a claim made as mentioned in that subsection, to recover from the Crown compensation in respect of any expenses reasonably incurred by him in that behalf.

(4) Any compensation payable to a person under this section by virtue of such an order as is mentioned in subsection (1) shall be reduced by the value to him of any timber, apparatus or other materials removed for the purpose of complying with the order.

64. The matters for which provision may, under section 27, be made by a tree preservation order or may, under section 28, be made by a building preservation order, include the payment by the Crown, subject to such exceptions as may be specified in the order, of compensation in respect of damage or expenditure caused or incurred in consequence of the refusal of any consent required under the order or of the grant of any such consent subject to conditions.

Compensation in respect of tree and building preservation orders.

65. Where, for the purpose of complying with any regulations made under section 31, works are carried out by any person—

Compensation for restrictions on advertising.

- (a) for removing an advertisement which was being dis-

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played on the date on which the regulations came into force; or

- (b) for discontinuing the use for the display of advertisements of a site used for that purpose on the last mentioned date,

that person is, on a claim made to the Minister within the time and in the manner prescribed by regulations, entitled to recover from the Crown compensation in respect of any expenses reasonably incurred by him in that behalf.

General provisions as to compensation for depreciation under Part VIII.

Cap. 228.

66. (1) Compensation to which this section applies shall be assessed in accordance with the Land Acquisition Act.

(2) This section applies to any compensation which under the preceding provisions of this Part, other than section 64, is payable in respect of depreciation of the value of an interest in land.

(3) Where an interest in land is subject to a mortgage—

- (a) any compensation to which this section applies, which is payable in respect of depreciation of the value of that interest, shall be assessed as if the interest were not subject to the mortgage;
- (b) a claim for any such compensation may be made by any mortgagee of the interest, but without prejudice to the making of a claim by the person entitled to the interest;
- (c) compensation to which this section applies is not payable in respect of the interest of the mortgagee as distinct from the interest which is subject to the mortgage;
- (d) any compensation to which this section applies which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee or, if there is more than one mortgagee, to the first mortgagee and shall in either case be applied by him as if it were proceeds of sale.

Determination of claims for compensation.

67. Except in so far as may be otherwise provided by any tree preservation order or any building preservation order or by any regulations compensation payable under this Part shall,

in default of determination by agreement, be determined in accordance with the procedure laid down in the *Land Acquisition Act*.

Cap. 228.

68. With respect to claims for compensation to which section 66 applies, section 60 shall have effect as if for the word and numerals "section 58" appearing therein there were substituted the words "this Part".

Application of section 60 for purposes of acquisition of land in lieu of compensation.

PART IX

Validity of Planning Instruments and Decisions and Proceedings relating thereto

69. (1) Except as provided by the following provisions of this Part, the validity of

Validity of development plans, certain orders, decisions and directions.

- (a) a development plan or an amendment of a development plan, whether before or after it has been approved; or
- (b) any such order as is mentioned in subsection (2), whether before or after it has been confirmed; or
- (c) any such action on the part of the Minister as is mentioned in subsection (3),

shall not be questioned in any legal proceedings whatsoever.

(2) The orders referred to in paragraph (b) of subsection (1) are orders of any of the following descriptions, namely

- (a) any order under section 24 or under that section as applied by or under any other provision of this Act;
- (b) any order under section 25;
- (c) any tree preservation order;
- (d) any building preservation order.

(3) The action referred to in paragraph (c) of subsection (1) is action on the part of the Minister of any of the following descriptions, namely

- (a) any decision of the Minister on an application for planning permission referred to him under section 18;

- 1968-14. (b) any decision of the Minister on review of any decision referred to him under section 19;
- (c) any decision of the Minister relating to an application for consent under a tree preservation order or a building preservation order or relating to an application for consent under any regulations made in accordance with section 31 or relating to any certificate or direction under any such order or regulations, whether it is a decision of the Minister on appeal or a decision on an application referred to him for determination in the first instance;
- (d) the giving by the Minister of any directions under section 59;
- 1998-39. (e) any decision relating to any requirement that an application should be accompanied by an assessment of the impact that the development in respect of which planning permission is applied for will be likely to have on the environment of Barbados.

(4) Nothing in this section shall affect the exercise of any jurisdiction of any court in respect of any refusal on the part of the Minister to take any such action as is mentioned in subsection (3).

Validity of
enforcement
notices and
similar
notices.

70. (1) Subject to subsection (2), the validity of an enforcement notice which has been served under Part V on the owner and occupier of the land shall not, except by way of an appeal under section 35, be questioned in any legal proceedings whatsoever on any of the grounds specified in paragraphs (a), (b), (c) and (d) of subsection (1) of section 35.

(2) Subsection (1) does not apply to proceedings brought under subsection (5) of section 36 against a person who

- (a) has held an interest in the land since before the enforcement notice was served under Part V; and
- (b) did not have the enforcement notice served on him thereunder; and
- (c) did not, under section 35, appeal against the notice.

(3) The validity of a notice which has been served under section 45 on the owner and occupier of the building to which the notice relates shall not, except by way of an appeal under section 46, be questioned in any legal proceedings whatsoever on the grounds that the works to which the notice relates were not, or were not wholly, works in contravention of subsection (1) of section 30.

(4) Subject to subsection (5), the validity of a notice which has been served under section 26 on the owner and occupier of the land or building shall not, except by way of an appeal under section 42, be questioned in any legal proceedings whatsoever on any of the grounds specified in paragraphs (a), (b) and (c) of subsection (1) of section 42.

(5) Subsection (4) does not apply to proceedings brought under section 41 against a person on whom the notice referred to in that subsection was not served, but who has held an interest in the land since before that notice was served on the owner and occupier of the land, if he did not appeal under section 42 against the notice.

(6) The validity of a notice purporting to be an enforcement notice does not depend on whether any non-compliance to which the notice relates was a non-compliance with conditions or with limitations or with both; and any reference in such a notice to non-compliance with conditions or limitations (whether both expressions are used in the notice or only one of them) shall be construed as a reference to non-compliance with conditions or with limitations or both with conditions and limitations, as the case may require.

71. (1) Any person aggrieved by a development plan or by an amendment of a development plan, who desires to question the validity thereof or of any provision contained therein on the grounds that it is not within the powers of this Act or that any requirement of this Act or of any regulations has not been complied with in relation to the approval or preparation of the plan or, as the case may be, in relation to the making of the amendment may, within six weeks from the date on which the notice is published in the *Official Gazette* under subsection (2) of section 10 appointing the date on which the plan or amendment thereof shall come into operation, make an application to the High Court under this section in accordance with any rules of court for the time being in force.

Proceedings for questioning validity of development plans.

- (2) On any application under this section, the High Court—
- (a) may by interim order suspend the operation of the plan or amendment, as the case may be, or of any provision contained therein, either generally or in so far as it

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affects any property of the applicant until the final determination of the proceedings;

- (b) if satisfied that the plan or amendment, or any provision contained therein, is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by a failure to comply with any requirement of this Act or of any regulations, may quash the plan or amendment or any provision contained therein, either generally or in so far as it affects any property of the applicant.

Proceedings
for question-
ing validity
of certain
orders,
decisions and
directions.

72. (1) Any person aggrieved—

- (a) by any order to which this section applies who desires to question the validity of that order, on the grounds that the order is not within the powers of this Act or that any of the relevant requirements have not been complied with in relation to that order; or
- (b) by any action on the part of the Minister to which this section applies who desires to question the validity of that action, on the grounds that the action is not within the powers of this Act or that any of the relevant requirements have not been complied with in relation to that action,

may, within six weeks from the date on which the order is confirmed or published in the *Official Gazette*, or the action is taken, as the case may be, make an application to the High Court under this section in accordance with any rules of court.

(2) This section applies to any such order as is mentioned in subsection (2) of section 69 (other than a tree preservation order made provisionally under subsection (3) of section 27 or a building preservation order made provisionally under that subsection as applied by subsection (4) of section 28) and to any such action as is mentioned in subsection (3) of the same section 69.

(3) Subject to subsection (4), on any application under this section, the High Court—

- (a) may by interim order suspend the operation of the order or action, the validity of which is questioned by the

application, until the final determination of the proceedings;

- (b) if satisfied that the order or action in question is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by a failure to comply with any of the relevant requirements in relation thereto, may quash that order or action.

(4) Paragraph (a) of subsection (3) does not apply to applications questioning the validity of tree preservation orders or building preservation orders.

(5) In relation to a tree preservation order, the powers conferred on the High Court by subsection (3) shall be exercisable by way of quashing or, where applicable, suspending the operation of the order, either in whole or in part, as the court may determine.

(6) For the purpose of this section, the expression "the relevant requirements", in relation to any order or action to which this section applies, means any requirements of this Act or of any order, regulations or rules, which are applicable to that order or action.

PART X

Miscellaneous and Supplementary Provisions

73. (1) Any condition—

- (a) subject to which planning permission is granted by the Town and Country Planning Officer under section 16 or subject to which any approval of that officer is given under any development order;
- (b) subject to which planning permission is granted by the Minister under section 18;
- (c) which is imposed by the Minister on the review of any decision referred to him under section 19,

Planning conditions, restrictions, and enforcement notices to be charges on land when registered.

shall, when registered in the register kept by the Chief Town Planner under section 17, be a charge on the land in respect

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of which the planning permission was granted, the approval given or appeal determined, as the case may be.

(2) Every—

- (a) order under section 24 or 25 which is confirmed by the Minister; or
- (b) notice under section 26, 33 or 45 which takes effect; or
- (c) order under section 27 or 28,

shall, when registered in a register to be kept by the Chief Town Planner, be a charge on the land to which the order or notice relates.

(3) The register to be kept by the Chief Town Planner under subsection (2) shall be kept in such manner and contain such information, as may be prescribed.

(4) Every register kept under subsection (2) shall be available for inspection by the public at all reasonable hours.

Expenses to be met from the moneys voted by Parliament.

74. All sums payable by way of compensation under Parts VII and VIII and all other expenses properly incurred in the administration of this Act including any costs payable by the Chief Town Planner under subsection (9) of section 19 shall be paid out of moneys voted for the purposes of this Act by Parliament.

Adaptation or modification of other laws.

75. (1) For the purposes of this Act and of any statutory instrument, the Minister may, from time to time, by order published in the *Official Gazette*, provide that any Act, statutory instrument or other enactment or law which is in force on the 8th July, 1968, or which comes into force after that day shall be read and construed with such adaptations and modifications as may appear to the Minister to be necessary or expedient.

(2) Subsection (1) is in addition to and not in derogation of subsection (6) of section 15 and of section 53.

1968-14.

(3) Every order made under subsection (1) shall be subject to negative resolution.

Powers of entry.

76. (1) The Chief Town Planner, or any person duly authorised in writing by him, may, at any reasonable time,

enter upon any land for the purpose of surveying it or estimating its value in connection with

- (a) the preparation, approval, making or amendment of a development plan relating to the land under Part III, including the carrying out of any survey under that Part;
- (b) any application under Part IV, or under any order or regulations made thereunder, for any permission, consent or determination to be given or effected in relation to that or any land under Part IV or under any such order or regulations;
- (c) any proposal by the Chief Town Planner or by the Minister to serve or make any notice or order under Part IV or Part V or under any order or regulations made thereunder;
- (d) any claim for compensation under this Act.

(2) Any person authorised under this section to enter upon any land shall, if so required, produce evidence of his authority before so entering and shall not demand admission as of right to any land that is occupied unless 48 hours notice of the intended entry has been given to the occupier.

(3) (*Repealed by 1981—44*).

(4) Any person who, in compliance with this section, is admitted into a factory, workshop or workplace, and discloses to any person any information obtained therein by him relating to any manufacturing process or trade secret, unless the disclosure is made in the course of performing his duty in connection with the survey or estimate for which he was authorised to enter the premises, is guilty of an offence and, on conviction thereof by a court of summary jurisdiction, is liable to a fine of \$500 or to imprisonment for 3 months.

(5) Where any land is damaged in the exercise of a power of entry conferred under this section or in the making of any survey for the purpose of which any such power of entry has been so conferred, compensation in respect of that damage may be recovered from the Crown by any person having an interest in the land within the meaning of that expression as defined in subsection (1) of section 54.

Cap. 228. (6) Compensation under subsection (5) shall, in default of agreement, be determined in accordance with the procedure laid down in the *Land Acquisition Act*.

(7) Any power conferred by this section to survey land shall be construed as including power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals therein.

(8) A person shall not carry out any works authorised by subsection (7) unless notice of his intention to do so has been included in the notice required by subsection (2).

Inspection
of docu-
ments.

1981-44.

76A. (1) The Chief Town Planner or any person authorised in writing by him may, for the purposes of carrying out any of the functions required or permitted, or otherwise to be performed by him in accordance with this Act or any statutory instrument, at any reasonable time inspect any document or survey plan relating to any land including adjacent and contiguous land; and, for those purposes, may make copies of the document or plan.

(2) A person authorised under subsection (1) to inspect any document or plan shall, if so required, produce evidence of authority to inspect the document or plan.

(3) The Chief Town Planner shall give at least 7 days notice in writing of his intention to inspect any document or plan under subsection (1) to the person in whose possession he believes the document or plan to be.

(4) Any person upon whom a notice under subsection (3) is served who without reasonable excuse fails to produce for inspection any document or plan mentioned in the notice is guilty of an offence and is liable on summary conviction to a fine of \$100.

Service of
notices.

77. (1) Subject to subsections (2) and (3), any notice or other document required or authorised to be served or given under this Act or under any regulation, order, direction or instrument in writing made under this Act may be served or given either

- (a) by delivering it to the person on whom it is to be served or to whom it is to be given; or
- (b) by leaving it at the usual or last known place of abode of that person or, in a case in which an address for service has been furnished by that person, at that address; or
- (c) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode or, in a case in which an address for service has been furnished by that person, at that address; or
- (d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at its registered or principal office or sending it in a prepaid registered letter addressed to the secretary or clerk of the company or body at that office.

(2) Where the notice or document is required or authorised to be served on any person as having an interest in premises and the name of that person cannot be ascertained after reasonable enquiry, or where the notice or document is required or authorised to be served on any person as an occupier of premises, the notice shall be taken to be duly served if

- (a) being addressed to him either by name or by the description of "the owner" or "the occupier", as the case may be, of the premises (describing them), it is delivered or sent in the manner prescribed by paragraph (a), (b) or (c) of subsection (1); or
- (b) being addressed as aforesaid and marked in such manner that it is plainly identifiable as a communication of importance, it is sent in a prepaid registered letter to the premises and is not returned to the person or authority sending it or is delivered to some person on those premises or is affixed conspicuously to some object on those premises.

(3) Where the notice or other document is required to be served on or given to all persons having interests in, or being occupiers of, premises comprised in any land and it appears

to the person or authority required or authorised to serve or give the notice or other document that any part of that land is unoccupied, the notice or document shall be taken to be duly served on all persons having interests in, and on any occupier of, premises comprised in that part of the land (other than a person who had furnished an address for the service of the notice or document on him) if it is addressed to "the owners and any occupier" of that part of the land (describing it) and is affixed conspicuously to some object on the land.

Cap. 27A.

(4) Any letter or communication which, under paragraph (a) of subsection (1) of section 6 of the *Post Office Act* is exempt from the payment of inland postage, shall be deemed to have been prepaid for the purposes of subsection (1)(c).

(5) Where under Part V any person has appealed to a Judge in chambers against an enforcement notice or a notice under section 26 or section 45, neither that person nor any other person is entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

Power to
require in-
formation
as to in-
terests in
land.

78. (1) For the purpose of facilitating the making of any order or the service of any notice or other document that is by this Act authorised or required to be made or served, the Chief Town Planner may require the occupier of any premises and any person who, either directly or indirectly receives rent in respect of any premises, to state in writing the nature of his interest therein and the name and address of any other person known to him as having an interest therein, whether as freeholder, mortgagee, lessee or otherwise.

(2) Any person who, having been required in pursuance of this section to give any information, fails to give that information or knowingly makes any misstatement in respect thereof is guilty of an offence and, on conviction thereof by a court of summary jurisdiction, is liable to a fine of \$500.

Offences.
1981-44.

78A. Any person who

- (a) assaults, resists, obstructs or intimidates;
- (b) uses indecent, abusive or insulting language to;
- (c) interferes with or hinders; or
- (d) by any gratuity, bribe, promise or other inducement prevents the due execution of his duty by,

any officer or other person acting under the authority of this Act or any statutory instrument is guilty of an offence and is liable on summary conviction to a fine of \$2 000 or to imprisonment for 6 months, or to both. 2007-51.

79. (1) The Minister may make regulations

Regulations.

- (a) prescribing the form of any notice, order or other document authorised or required by this Act to be served, made or issued;
- (b) with respect to the preparation and making of development plans;
- (c) with respect to the making of applications for planning permission under Part IV, including the payment of fees in respect thereof; 1968-14.
- (d) with respect to the making of claims for compensation under Parts VII and VIII;
- (e) generally for the purposes of this Act, including any purposes for which regulations are authorised or required to be made thereunder and in particular prescribing anything that by this Act is required or authorised to be prescribed by regulations. 1968-14.

(2) Any regulations may provide for the imposition of a fine of \$2 000 for any contravention of any of the provisions of such regulations. 2007-51.

80. For the purposes of this Act, the Judicial Advisory Council may make such rules as it thinks fit with respect to all matters of court procedure and matters incidental thereto.

Power to make rules relating to matters of court procedure.

Minister and
Chief Town
Planner to
have regard
to coastal
zone
management
plan.
Cap. 394.

80A. In the exercise of their functions under this Act, the Minister and the Chief Town Planner shall have regard to the coastal zone management plan referred to in the *Coastal Zone Management Act*.

Application
of this Act
to land
regulated by
special
enactment.

81. For the avoidance of doubt, it is hereby declared that this Act and any restrictions or powers thereby imposed or conferred in relation to land apply and may be exercised in relation to any land notwithstanding that provision is made by any Act, statutory instrument or other enactment or law in force on the 8th July, 1968, for authorising or regulating any development of the land.¹

Application
to the
Crown.
1998-39.

82. This Act binds the Crown.

1968-14.

FIRST SCHEDULE

(Section 4(2))

CONSTITUTION AND PROCEDURE OF TOWN AND COUNTRY PLANNING ADVISORY COMMITTEE

1983-7.

1. The Committee shall consist of not more than 9 members, who shall be appointed by the Minister.
2. The Minister shall appoint a member of the Committee to be chairman of the Committee.
3. A member of the Committee shall, subject to this Schedule, hold office for a period not exceeding 2 years but shall be eligible for reappointment.
4. The Minister may appoint any person to act temporarily in the place of the chairman or any other member of the Committee in the case of the absence or inability to act of the chairman or of such other member, as the case may be.

¹ Saving and transitional provisions in relation to the *Advertisements Regulation Act, 1956-5*, *Town and Country Development Planning (Interim Control) Act, 1959-20* and the *Public Health (Repeal) Act, 1963* (repealed by this Act) are not reprinted in these Laws. See Act 1965-60, Fourth Schedule.

5. (1) Any member of the Committee, other than the chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of receipt by the Minister of such instrument such member shall cease to be a member of the Committee.

(2) The chairman may at any time resign his office by instrument in writing addressed to the Minister, and such resignation shall take effect as from the date of receipt of such instrument by the Minister.

6. The Minister may at any time revoke the appointment of any member, including the chairman.

7. The names of all members of the Committee as first constituted and every change in the membership thereof shall be published in the *Official Gazette*.

8. (1) The Committee shall meet at such times as may be necessary or expedient for the transaction of business and such meetings shall be held at such places and times and on such days as the Committee may determine; but the Minister may direct that, in dealing with matters specified in the direction, the Committee shall meet at such places and times as may be so directed.

(2) The chairman shall preside at meetings of the Committee and, if the chairman is absent from a meeting, the meeting shall be presided over by such person as the other members present at the meeting and constituting a quorum may elect from among their number.

(3) At any meeting of the Committee a quorum shall be the minimum number constituting a majority of all the members of the Committee.

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

(5) Minutes in proper form of each meeting shall be kept by the secretary and shall be confirmed by the chairman as soon as practicable thereafter at a subsequent meeting.

(6) The acts of the Committee shall be authenticated by the signature of the chairman or the secretary of the Committee.

(7) Subject to this paragraph, the Committee may regulate its own proceedings.

9. The validity of any proceedings of the Committee shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

10. There shall be paid to the chairman and other members of the Committee such remuneration and allowances (if any) as the Minister may determine in the case of those members respectively.

11. The Chief Town Planner shall from time to time assign one of the officers of his department to perform the functions of secretary of the Committee.

12. For the purposes of this Schedule, the expression "chairman" includes a person appointed or elected as the case may be to act temporarily in place of the chairman.

SECOND SCHEDULE

(Section 6(3))

MATTERS FOR WHICH PROVISION MAY BE MADE IN DEVELOPMENT PLANS

Part I

Roads

1. Reservation of land for roads and establishment of public rights of way.
2. Closing or diversion of existing roads and public and private rights of way.
3. Construction of new roads and alteration of existing roads.

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

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

PART II

Building and other Structures

1. Regulating and controlling, either generally or in particular areas all or any of the following matters, that is to say—

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

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

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

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

PART III

Community Planning

1. Providing for the control of land by its allocation or designation for specific uses.

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

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

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PART IV

Amenities

1. Allocation of lands as open spaces whether public or private.
2. Allocation of land for burial grounds and crematoria.
3. Allocation of lands—
 - (a) for communal parks;
 - (b) for bird and other sanctuaries;
 - (c) for the protection of marine life.
4. Preservation of buildings, caves, sites and objects of artistic, architectural, archaeological or historical interest.
5. Preservation or protection of forests, woods, trees, shrubs, plants and flowers.
6. Prohibiting, restricting or controlling, either generally or in particular places, the exhibition, whether on the ground, on any building or any temporary erection, whether on land or in water or in the air, of all or any particular forms of advertisement or other public notices.
7. Preventing, remedying or removing injury to amenities arising from the ruinous or neglected condition of any building or fence or by the objectionable or neglected condition of any land attached to a building or fence or abutting on a road or situate in a residential area.
8. Prohibiting, regulating and controlling the deposit or disposal of waste materials and refuse, the disposal of sewage and the pollution of rivers, lakes, ponds, gullies and the seashore.

PART V

Public Services

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

PART VI

Transport and Communication

1. Facilitating the establishment, extension or improvement of systems of transport, whether by land, water or air.
2. Allocating sites for use in relation to transport and the reservation of land for that purpose.

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

PART VII

Miscellaneous

1. Providing for and regulating the making of agreements for the purpose of a development plan by the Government with a statutory board or with owners and other persons and by a statutory board with such persons and by such persons with one another.

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

- (a) regulating the type of development to be carried out and the size and form of plots;
- (b) requiring the allocation of land for any of the public services referred to in Part V of this Schedule or for any other purposes referred to in this Schedule for which land may be allocated;
- (c) prescribing the character and type of public services or other works which shall be undertaken and completed by any applicant for permission to sub-divide as a condition of the grant of such permission;
- (d) co-ordinating the sub-division of contiguous properties in order to give effect to any scheme of development appertaining to such properties.

3. Making any provisions necessary for—

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

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