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

PART VI

ENVIRONMENTAL PROTECTION

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

Compliance of a list of buildings.

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

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

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

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

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

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

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

Building preservation orders.

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

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

(3) A copy of the interim building preservation order shall

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

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

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

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

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

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

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

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

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

(11) A building preservation order shall -

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

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

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

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

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

- (a) the building has become incapable of reasonably beneficial use in its existing state; or
- (b) the building cannot be rendered capable of reasonably beneficial use by the carrying out of the conditions imposed by the building preservation order;

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

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

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

Plant preservation order.

49. (1) Where the Minister after consultation with the Minister responsible for the environment, is of the opinion that it is desirable for amenity, environmental, landscape, scientific or

similar reasons that any plant or group or species of plants, ought to be preserved, the Minister may make a plant preservation order with respect to such plant, group or species of plant.

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

(3) A plant preservation order shall-

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

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

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

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

Amenity orders.

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

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

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

(2) An amenity order shall state clearly -

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

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

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

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

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

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

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

Appeal against amenity order.

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

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

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

(b) the person upon whom the notice has been served has no control over and no authority to remove,

destroy or demolish any matter or building referred to in the order;

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

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

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

Public access for recreational purposes.

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

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

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

owner or tenant of the land shall be entitled to receive compensation from the State for the depreciation, if any, in the value of his interest in the land by reason of such right of access by members of the public.

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

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

Public access and right
of way to beaches.

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

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

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

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(4) Where land is acquired by way of compulsory acquisition for a beach access the provisions of the Land Acquisition

Act shall apply in respect of such acquisition.

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

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

Control of advertisements.

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

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

ments of any site that is being used for that purpose in contravention of the Regulations, and for that purpose for applying any of the provisions of this Part with respect to compliance notices, subject to such adaptations and modifications as may be specified in the regulations;

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

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

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

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

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

(5) Regulations made for the purpose of this section may

make different provisions with respect to different areas and in particular may make special provision -

- (a) with respect to environmental protection areas;
or
- (b) with respect to areas defined for the purposes of the Regulations as areas of special control, being areas which appear to the Minister to require special protection on the grounds of amenity.

(6) In exercising the powers conferred by this section the Minister shall -

- (a) in the interests of amenity, determine the suitability of sites for the display of advertisements having regard to any development plan applicable to the area and to the general characteristics of the locality including the presence of any feature of architectural, historic, cultural or similar interest and the natural beauty or scenic value of the locality; and
- (b) in the interests of public safety have regard to the safety of persons who may use any road, dock, harbour or airfield and in particular shall consider whether any display of advertisements thereon is likely to hinder or obscure any road or traffic sign or any aid to navigation by air or water.

Supplementary provisions as to advertisements.

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

(2) Without affecting any provisions included in regula-

tions made under section 88 (2) (i), a person who displays an advertisement in contravention of the provisions of the Regulations, commits an offence and is liable on summary conviction to a fine of such amount as may be prescribed by the Regulations, not exceeding five thousand dollars and, in case of a continuing offence, to a further fine not exceeding three hundred dollars for every day after the first day during which the display is so continued.

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

(a) the advertisement is displayed on the land of which he is the owner or occupier; or

(b) the advertisement gives publicity to his goods, trade, business or other concerns.

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

Environmental
protection area.

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

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

(a) take such steps as in its opinion will ensure that adequate publicity is given to its proposals in the area to which the proposals relate;

-
- (b) provide persons living and working in the area and any other persons interested in the area with an opportunity of making representations and comments on the proposals;
 - (c) consult with the Minister responsible for the Environment and any other person, body or authority who appears appropriate as being interested in or having special knowledge on environmental matters; and
 - (d) receive and take account of the representations and comments received on the proposals.
- (3) In determining whether it is desirable to declare any area an environmental protection area the Authority shall have regard to-
- (a) the survey prepared under subsection (1);
 - (b) any representations or comments submitted by any person, body or authority on the proposals;
 - (c) such of the following matters as may be relevant to the area -
 - (i) the flora and fauna of the area;
 - (ii) the natural features and beauty of the area;
 - (iii) any outstanding geological, physiographical, ecological, or architectural, cultural or historical features of the area which it is desirable to preserve and enhance;
 - (iv) any special scientific interest in the area;
 - (v) any special natural hazards to which the area is or may be subject; and
 - (vi) the characteristics, circumstances and interests of the people living and working in the area.

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

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

Environmental
protection area order.

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

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

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

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

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

Land in environmental protection areas.

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

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

Environmental protection area management plan.

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

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

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

the environmental protection area.

60. (1) The Minister may, in consultation with the Minister responsible for State lands, by Notice published in the *Gazette*, declare any area of the foreshore or the sea bed as special resource and use areas where public use of certain lands and waters of the foreshore or sea bed needs to be controlled or protected to ensure the safety and welfare of the public and for the preservation of the coastal environment namely -

(a) protected swimming and surfing areas where other potentially conflicting uses are prohibited; and

(b) designated area for -

(i) anchoring;

(ii) mooring;

(iii) beaching;

of ships, yachts, motor boats, boats and other water craft, and restrictions on the numbers and kinds of ships, yachts, motor boats, boats, and other water craft that may be anchored, moored, or beached in any particular bay or other coastal area at one time;

(c) designated areas where the use of equipment for -

(i) wind surfing;

(ii) water skiing; or

(iii) any other water-related sport, including spear fishing;

is prohibited.

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

Ministerial order to
protect the Environment.

61. (1) Where the Minister is satisfied on information received from the Authority, that it is in the public interest for the purpose of preventing or mitigating a specified environmental threat or hazard so to do, he may by Order published in the *Gazette*, and at least one newspaper circulating in Dominica, direct the Authority to take such steps as are necessary to remove, mitigate or prevent any condition that poses or is likely to pose a threat to the environment and the Authority shall act in accordance with such Order.

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

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

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

(5) Any person who -

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

(b) contravenes any provision of such Order,

commits an offence, and is liable on summary conviction to a fine not exceeding twenty thousand dollars.

Application for building control.

Building Regulation

PART VII

BUILDING REGULATION

Subject to the provisions of this Part no person shall

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

(a) as to new buildings -

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

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

(xvii) low cost housing; and

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

(b) as to existing buildings -

(i) structural alterations or extensions to buildings;

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

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

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

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

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

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

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

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

(3) Building Regulations may -

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

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

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

(c) the prescribing and payment of fees.

Appointment of building inspectors.

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

Passing and rejection of plans.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

behalf plans are deposited as to whether -

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

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

Power to require removal or alteration of work.

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

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

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

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

Appeal against notices.

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

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

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

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

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

Lapse of deposit of plans.

PART VIII

COMPENSATION AND ACQUISITION

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

Claim for compensation.

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

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

directly attributable to such revocation or modification; or

(ii) any person with an interest in the land or who has lent money on the security of the land, has suffered loss or damage directly attributable to such revocation or modification; or that

(b) a person has suffered loss or damage by depreciation in the value of an interest in land by virtue of -

(i) the refusal of the Authority, where a building has been destroyed by fire, hurricane or other natural disaster, to allow a building of similar cubic content to be erected in the same position, as near as can be, to the destroyed building and for the same purposes for which the destroyed building had been used prior to the fire, hurricane or other natural disaster;

(ii) the making of a notice under section 45 requiring any use of land to be discontinued or imposing conditions on the continuance thereof or requiring that buildings or works on land be altered or removed;

(iii) the making of a public access notice under section 52; or

(iv) the making of an environmental protection area order under section 57;

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

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

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

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

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

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

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

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

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

(a) he shall consult the views of the Authority, who after making such enquiries as it thinks fit shall submit its own recommendation on the matter to the Minister;

(b) and it appears to the Minister that the decision which gave rise to the claim might properly be withdrawn or modified, he may refer the matter to the Appeals Committee for its determination as if the claim for compensation had included an appeal against the decision which gave rise to the claim;

(c) and such claim for compensation cannot be settled through negotiation between the claimant and the Minister, the Minister shall refer the question as to whether any compensation is payable to the claimant, or as to the amount thereof, for decision by the High Court, which for the purpose shall be constituted as provided by the Land Acquisition Act, and the provisions of that Act shall apply *mutatis mutandis* to the assessment of compensation payable under this Part as they apply in the case of compensation payable under the Land Acquisition Act.

Ch. 53:02.

Ch. 53:02.

Position where land is subject to mortgage.

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

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

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

Registration of claim for compensation.

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

Acquisition of land in
lieu of compensation.

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

Ch. 53:01.

Purchase notice with
respect to adverse
decisions.

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

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

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

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

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

(3) The Minister may -

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

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

Ch. 53:02.

PART IX APPEALS

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

Establishment of
Appeals Committee.

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

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

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

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

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

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

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

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

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

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

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

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

Right of appeal.

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

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

(j) making an amenity order, on any of the grounds mentioned in section 50 (2);

(k) issuing a compliance notice or as to the terms thereof; or

(l) issuing a notice requiring discontinuance of use or alteration or removal of buildings or works.

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

(a) within 42 days of the determination of the decision which is to be appealed against under subsection (2) (a) to (f);

(b) within 42 days of the date on which the notice or order which is to be appealed against under subsection (2) (g) to (j) was served;

(c) within the period specified in the notice as the period at the end of which the notice is to take effect in the case of a notice which is to be appealed against under subsection (2) (k) and (l);

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

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

(a) concisely the decision appealed against;

(b) a description of the land affected thereby;

(c) the name of the appellant;

(d) the interest of the appellant in the land affected by the decision; and

(e) concisely the grounds on which the appellant wishes to appeal against the decision.

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

-
- (a) a copy of all papers and documents submitted by the appellant or any person acting on his behalf to the Authority;
- (b) a copy of the decision appealed against; and
- (c) a plan sufficiently identifying the location and boundaries of the land affected by the decision.
- (6) On receipt of a copy of the notice given under subsection (3) the Appeals Committee shall reject the notice of appeal if -
- (a) it appears not to comply with subsection (4); or
- (b) the appellant appears not to have any sufficient interest in the land to justify him appealing against the decision.
- (7) Where a Notice of Appeal is not rejected under subsection (5), the Appeals Committee shall, in its discretion, direct whether the appeal shall be dealt with by public inquiry or by written representations and shall, within 28 days of receipt of the Notice of Appeal, notify the appellant and the Authority accordingly.
- (8) The Appeals Committee shall take the following matters into consideration before deciding whether the appeal may be dealt with by written representations or by public enquiry -
- (a) whether the public interest requires that all persons, including the appellant, who may have a view to express in relation to the matter to which the appeal relates should have an opportunity of having their views taken into account, of submitting evidence and of examining witnesses called by others;
- (b) without prejudice to the generality of paragraph (a), whether it would be reasonably practicable to deal with the appeal by way of written representations; and

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

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

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

Procedure at public inquiries.

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

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

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

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

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

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

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

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

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

Record of proceedings of public inquiry.

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

(2) The record under this section shall contain -

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

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

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

Appeals by written representations.

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

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

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

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

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

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

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

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

Decision and
notification of appeal.

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

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

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

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

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

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

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

Appeals to the High Court.

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

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

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

PART X

MISCELLANEOUS AND SUPPLEMENTARY

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

Powers of entry.

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

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

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

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

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

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

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

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

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

(a) for the purpose of ascertaining whether there is, or has been, on or in connection with the premises, a contravention of Part VII of this Act, or of the Building Regulations;

(b) for the purpose of ascertaining whether or not circumstances exist that would authorize or require the Authority to take any action, or execute any work, under Part VII of this Act or under the Building Regulations;

(c) for the purpose of taking any action, or executing any work, authorised or required by Part VII of this Act or the Building Regulations or by notice made under Part VII of this Act or under the Building Regulations; or

(d) generally for the purpose of the performance by the Authority of its functions under Part VII of this Act of the Building Regulations.

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

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

Service of notices.

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

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

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

Power to require information.

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

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

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

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

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

Register to planning decisions.

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

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

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

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

Notification to Registrar
of Titles.

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

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

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

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

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

Death of person having claim or right.

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

Offences.

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

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

commits an offence and is liable -

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

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

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

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

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

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

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

Repeal.

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

Act binds state.

90. This Act binds the State.

(Section 9 (4)(d).)

SCHEDULE I

MATTERS FOR WHICH PROVISION MAY BE MADE IN DEVELOPMENT PLANS

PART I

ROADS

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

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

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

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

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

PART II

BUILDING AND OTHER STRUCTURES

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

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

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

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

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

PART III

COMMUNITY PLANNING

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

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

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

PART IV

AMENITIES

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

2. Allocation of land for burial grounds and crematoria.

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

PART V

PUBLIC SERVICES

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

PART VI

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

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

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

PART VII

MISCELLANEOUS

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

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

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

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

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

- (c) prescribing the character and type of public services or other works which shall be undertaken and completed by any applicant for permission to sub-divide as a condition of the grant of such permission;
 - (d) co-ordinating the sub-division of contiguous properties in order to give effect to any scheme of development appertaining to such properties.
3. Making any provisions necessary for -
- (a) adjusting and altering the boundaries and areas of any towns;
 - (b) enabling the establishment of satellite towns and new towns;
 - (c) effecting such exchanges of land or cancellation of existing sub-division plans as may be necessary or convenient for the purposes aforesaid.

SCHEDULE II

(Section 18(3) and 23).

MATTERS FOR WHICH ENVIRONMENTAL IMPACT ASSESMENT SHALL BE REQUIRED

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

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

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

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

DOMINICA

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