



ANGUILLA

BILL FOR
THE PHYSICAL PLANNING ACT, 2001

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ANGUILLA
PHYSICAL PLANNING ACT, 2001

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I Assent

Peter Johnstone

Governor

ANGUILLA
NO. OF 2001
A BILL FOR
PHYSICAL PLANNING ACT, 2001

An Act to make provision for the orderly and progressive development of land 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; for the regulation of the construction of buildings and related matters; to confer additional powers in respect of the acquisition and development of land for planning; and for purposes connected therewith or incidental thereto.

[Gazetted] [Commencement: Section 80]

ENACTED by the Legislature of Anguilla

PART 1
PRELIMINARY

Interpretation

1. (1) In this Act, unless the context otherwise requires—

“advertisement” means any word, letter, model, sign, placard, board, flag, poster, notice, awning, blind, balloon, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of advertisement, announcement or direction, or calling attention to any person, matter, object or event, and without prejudice to the foregoing provision, includes any hoarding, billboard, wall, fence, or similar structure used, adapted, designed or intended for use, for display of advertisements and reference 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), and the use of land as grazing land, market gardens and nursery grounds, but does not include the use of land for aquaculture;

“amenity order” means an order made under section 44;

“Appeals Tribunal” means the Appeals Tribunal established by section 65;

“aquaculture” includes the breeding, rearing or keeping of fish, shellfish, or any other aquatic and marine flora and fauna, which involves the placing or assembly of any pen, cage, tank, pond or any other structure

in, on or over any land for the purposes of aquaculture or mariculture;

“beach” means the area of the coastal zone from the seaward line of the foreshore running inland to the line of permanent vegetation or other natural barrier, whichever is closer;

“beach material” includes sand, shells, coral fragments, stones, gravel, boulders or other unconsolidated material comprising a beach;

“Board” means the Physical Planning Board established under section 4;

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

“building” includes any permanent or temporary erection or structure in, on, over or under any land, whether affixed to the land or not, and any part of a building so defined (but does not include plant or machinery comprised in a building);

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

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

“building permit” means a notice issued under the provisions of Part 7 granting permission for the commencement of building operations;

“building regulations” means regulations made under section 54, and a reference to building regulations, in a particular case in relation to which a requirement of building regulations is for the time being dispensed with, waived, relaxed or modified, is a reference to building regulations as they apply in that case unless the context otherwise requires;

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

“Crown land” includes the waste or vacant land of the Crown within Anguilla and all lands vested in the Crown, whether by forfeiture, escheat, purchase or exchange, and not dedicated to the public;

“development permit” means a notice granting permission for development issued under the provisions of Part 4;

“development plan” means any development plan prepared under Part 3 and includes any modification or amendment thereof, and “plan” shall mean a development plan where the context so admits;

“Director” means the Director of Physical Planning;

“discontinuance notice” means a notice issued under section 42;

“dwelling house” means any building used or constructed or adapted to be used as a dwelling unit, and contains only that dwelling unit;

“dwelling unit” means a building, or any self-contained part of a building, used or constructed or adapted to be used for human habitation by a single individual or household;

“enforcement notice” means a notice issued under section 33;

“enforcement notice” means a notice issued under section 33;

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

“environment” means all or any of—

- (a) the media of land, water, and air, including all layers of the atmosphere;
- (b) organic and inorganic matter and living organisms; and
- (c) the interacting systems that include components referred to in paragraphs (a) and (b);

within the territorial jurisdiction and control of Anguilla;

“environmental impact assessment” means the process of collection, analysis, evaluation and review of information on the likely effects of a proposed development on the environment and the means to overcome adverse effects;

“environmental impact statement” means the document or series of documents which contain the information on the likely effects of the proposed development on the environment and the means to overcome adverse effects required by section 21;

“environmental protection area” means any area declared to be an environmental protection area under section 49;

“foreshore” means land which lies between the mean low water mark and the mean high water mark of the tides;

“industrial development” means the development of land for the manufacture or partial manufacture of goods, articles or substances of any kind, or the assembly of manufactured goods or the turning into manufactured goods of articles which are partially manufactured or of substances in their natural state, or the repairing, finishing, cleaning, washing, packing or canning, adapting for sale or breaking up of any article;

“land” includes incorporeal as well as corporeal hereditaments of every tenure and description and any interest therein, land covered with water, the foreshore and the sea bed;

“Land Acquisition Act” means Land Acquisition Ordinance (Chapter 273);

“lawful use” does not include use of any land which was commenced in contravention of the provisions of this Act or of town and country planning, land development control, or building legislation hitherto in force in Anguilla;

“layout plan” means a detailed plan showing the manner in which a parcel of land is to be subdivided and used;

“means of access” includes any road or other means of access for vehicles or for pedestrians, whether private or public;

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

“mining operation” means—

- (a) to carry out, in relation to any mineral or beach material, any activity with a view to excavating, working, extracting, carrying away, treating or converting that mineral;
- (b) to search or explore for any mineral with a view to carrying out any activity mentioned in paragraph (a) of this definition and to carry out any work necessary for such search or

exploration;

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

“Minister” means the Minister for the time being in charge of the subject of land, physical planning and development;

“mortgage” includes any charge or lien on any property for securing money or money’s worth;

“occupancy permit” means a certificate that building or engineering operations or the subdivision of lands have been carried out and completed in accordance with the terms and conditions of any development permit or building permit;

“owner”, in relation to land, means a proprietor under the Registered Land Ordinance, 1974 by reason of his being the owner of land or of a lessee under that Ordinance;

“parcel of land” means an area of land separately delineated under the Registered Land Ordinance, 1974;

“permitted development” means development which is authorized under section 77(2)(d);

“plant” includes any terrestrial or marine flora;

“plant preservation order” means a plant preservation order made under section 43;

“prescribed”, except in relation to matters expressly required or authorized by this Act to be prescribed in some other way, means prescribed by regulation made under this Act;

“purchase notice” means a purchase notice with respect to adverse decisions namely—

- (a) refusal of a development permit in circumstances where no development permission is available with respect to that land;
- (b) a revocation or modification notice;
- (c) a discontinuance notice;
- (d) an environmental area order;

“regulations” means regulations made under any provision of this Act;

“resources” means any social, cultural, historical, technological, biological, physical or chemical elements and processes, renewable or non-renewable, tangible or intangible, of economic or aesthetic importance which compose the surroundings of mankind;

“road” means any roadway, whether public or private, and includes any highway, street, square, court, alley, lane, bridge, culvert, footpath, trace, passage or right of way, whether a thoroughfare or not;

“sea bed” means the floor and subsoil underlying the sea between low water mark and so far out to sea as is deemed by international law to be within the territorial sovereignty of the Crown in right of Anguilla;

“subdivision” means the division of a parcel of land into 2 or more parcels, whether such division is by transfer, lease, vesting order or any other instrument, for the purpose of sale, gift, succession, partition, reparcelation, mortgage, letting, the registration of title by adverse possession or for any other purpose;

“unauthorized development” means any development (other than permitted development) for which a development permit has not been granted, or development which is not in accordance with the conditions or limitations subject to which a development permit was granted;

“use”, in relation to land, does not include the use of land by the carrying out of any building, mining or

engineering operations thereon;

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

(2) In Part 4 of this Act, the expression “development of land” means in, relation to land—

- (a) the carrying out of building, engineering, mining, or other operations in, on, over or under any land;
- (b) the making of any material change in the use of any building or land; or
- (c) the subdivision of land.

(3) For the avoidance of doubt it is hereby declared that—

- (a) the use as 2 or more separate dwelling units of any building previously used as one dwelling house involves a material change in the use of that building and of each part thereof so used;
- (b) the deposit of any waste material on land involves a material change in the use of the land, notwithstanding that the deposit is on a site which has been previously so used, if either the superficial area thereof or the height of the deposit is thereby extended or exceeds the level of any similar deposit on adjacent land; and
- (c) subdivision constitutes development whether or not the use for which the sub-divided land is intended constitutes development.

Objects and purposes of the Act

2. (1) The objects and purposes of this Act are to—

- (a) facilitate a continuous improvement in the quality of life of every person in Anguilla;
- (b) provide for the orderly, efficient and equitable allocation and development of the resources of Anguilla, taking account of all relevant social, economic and environmental factors, so as to ensure that sustainable use is made of land in the interests of all the people of Anguilla;
- (c) maintain and improve the quality of the physical environment within which human settlements are situated in Anguilla;
- (d) provide for the orderly subdivision of land and the provision of services in relation thereto;
- (e) secure the health, safety, welfare and convenience of persons in or about buildings, and of others who may be affected by buildings or matters connected with buildings;
- (f) protect and conserve the cultural heritage of Anguilla as it finds expression in the natural and the built environment; and
- (g) foster awareness that all persons and organizations owning, occupying and developing land have a duty to use that land with due regard for the wider interests, both present and future, of society.

(2) In implementing, applying and interpreting this Act, all persons shall have regard to, use their best efforts to further, and give a broad and purposive interpretation to the matters set out in subsection (1).

PART 2

ADMINISTRATION

Responsibilities of the Minister

3. (1) The Minister shall be responsible for the overall administration of this Act and, in the exercise of the powers conferred upon him, may do all things necessary or convenient for the purpose of carrying out his responsibilities.

(2) In addition to the several duties imposed on him by this Act, the Minister is responsible for the framing and implementation of a comprehensive policy with respect to the use and development of all lands in Anguilla in accordance with a development plan prepared under the provisions of Part 3.

(3) In exercising his functions, the Minister shall be guided by the principle that the provisions of this Act shall be applied uniformly, fairly and equitably to all persons.

Physical Planning Board

4. (1) There is hereby established a Physical Planning Board to carry out such functions as are conferred upon it by this Act.

(2) The constitution and procedures of the Board shall be in accordance with Schedule 1.

(3) The Board shall have responsibility for matters assigned to it under this Act.

(4) The Board may, for the purpose of such performance, consult with or obtain advice from other authorities, persons or bodies of persons as it thinks fit.

(5) The Board may delegate any of its duties to the Director of Physical Planning.

(6) The Board shall be responsible for the implementation of the policies framed by the Minister under section 3 and the Board shall act in accordance with directions of a general character which may be given by the Minister as to the policy to be followed in the exercise of its functions.

Powers and duties of the Director

5. (1) The Director shall be responsible to the Minister for the administration and operation of the system of planning for which this Act provides.

(2) Without prejudice to the generality of the provisions of subsection (1), the Director shall—

- (a) advise the Minister in the formulation and implementation of comprehensive policies as to the use and development of lands;
- (b) institute, complete, maintain and keep under review a study of the matters pertinent to planning the use and development of land;
- (c) prepare or cause to be prepared development plans in accordance with Part 3 of this Act; and
- (d) do all such other things as may be necessary for carrying out the purposes and provisions of this Act as are authorized by this Act.

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

Delegation

6. (1) Functions assigned to the Director by or under this Act may, subject to the approval of the Governor, be exercised by any planning officer authorized by the Director in writing, either generally or specially, in that behalf.

(2) Any person exercising a function assigned to a planning officer by or under this Act shall be

deemed, for the purpose of the exercise of that function, to be the proper officer for the exercise of that function, if authorized for the purpose by the Director in writing, and shall be deemed to have the powers of a planning officer for the purpose of that function.

Limitation of personal liability

7. The Minister, members of the Board, the Director or other public officer shall not be personally liable in any court for or in respect of any act or matter done, or omitted to be done, in good faith, in the exercise or purported exercise of any function under or power conferred by this Act.

PART 3 DEVELOPMENT PLANS

Proposal for a development plan

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

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

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

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

Preparation of a development plan

9. (1) The Director may prepare or cause to be prepared and thereafter keep under review a development plan for Anguilla as a whole or for any specified part of Anguilla.

(2) A development plan shall set out with such degree of particularity as may be appropriate to the different parts of Anguilla and to the nature of the development plan—

- (a) a statement of the principal aims and objectives with respect to the development and other use of land in the area;
- (b) a report on the existing conditions of the area, including—
 - (i) the principal physical, social, economic and environmental characteristics of the area including the principal purposes for which land is used,
 - (ii) the size, composition and distribution of population of the area,
 - (iii) the communications, transport systems and traffic in the area,
 - (iv) the public services and the physical and social infrastructure provided in the area, and
 - (v) any other matters which may affect the development and other use of land in the area or

which the Minister may direct;

- (c) a statement of the policies, proposals and programmes for the future development and use of land in the area, including principles for regulating the use and development of land and measures for the maintenance and improvement of the environment;
- (d) a reasoned justification of the policies and proposals for the future development and use of land in the area having regard to—
 - (i) the report of the existing conditions of the area under paragraph (b),
 - (ii) an examination of the likely environmental effects of the proposals,
 - (iii) any specific policies of the Government which may affect the pattern of development in the area,
 - (iv) the relationship between the proposals in the plan and other previously approved development plans which may affect the area, and
 - (v) the financial and other resources which are likely to be available for carrying out the proposals of the plan; and
- (e) a schedule setting out the stages by which the proposals of the plan may be implemented.

(3) The development plan shall include such maps, plans, drawings, diagrams and other graphic representations as the Director considers necessary to illustrate and explain the plan.

(4) A development plan may—

- (a) define the sites of proposed roads, public and other buildings and works, or the allocation of land for agricultural, residential, industrial or other purposes of any class, and the conditions under which such development should be carried out;
- (b) designate any area as being an area that for reasons of flooding, erosion, subsidence, instability, aircraft safety or other hazards, conservation or other environmental considerations should not be developed;
- (c) provide for the preservation of buildings, sites and other features for architectural, cultural, archaeological or historical reasons;
- (d) provide for any of the matters set out in Schedule 2 as the Director considers appropriate to the nature and scope of the proposed plan; and
- (e) designate as a comprehensive planning area any area which, in the opinion of the Director, needs to be planned as a whole for one or more of the purposes of development, redevelopment, improvement or conservation.

(5) Where any land is designated in a development plan made under this Part as a comprehensive planning area, the land or part of the land may be purchased compulsorily by the Crown in accordance with the Land Acquisition Act as being land required for public purposes within the meaning of that Act.

(6) As soon as practicable after the designation of land as a comprehensive planning area, the Director shall prepare a detailed plan for the relevant area showing the manner in which it is to be developed.

(7) A development plan shall not designate any land as a comprehensive planning area if it appears to the Director that the acquisition is not likely to take place within 5 years from the date on which the plan is approved.

(8) Where any land is designated by a development plan as a comprehensive planning area then, if at the expiration of 5 years from the date on which the plan or the amendment of the plan by virtue of which the

land was first so designated came into operation, any of that land has not been acquired by the Crown, any owner of an interest in the land may serve on the Minister a notice requiring the interest of the owner in the land to be acquired. If, after the expiration of 6 months after the service of that notice, the interest of the owner in the land has not been so acquired, the development plan shall have effect as if the land in which the interest subsists was not subject to compulsory purchase.

Consideration of draft development plan

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

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

(3) Any person may, within 8 weeks of the publication in the *Gazette* of the notice referred to in subsection (2), make either oral or written representations on the draft development plan to the Director.

(4) When the Director submits a draft development plan to the Minister, it shall be accompanied by a statement of the steps taken by the Director to comply with the provisions of this section and the particulars of the consultations held with other persons with respect to the proposals in the draft development plan.

(5) After the expiration of the period prescribed for making representations on a draft development plan, the Director shall consider the draft development plan and the representations and comments made, and shall forward the same together with his own recommendations and comments to the Minister.

Approval of development plan

11. (1) The Minister, after considering a draft development plan which has been submitted to him under section 10(5), and all comments, representations and recommendations thereon, may—

- (a) adopt the draft plan with or without modifications and submit it for the approval of the Executive Council;
- (b) require further work on, or revision of, the draft plan; or
- (c) require further consultations on the draft plan in whole or in part.

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

(3) Unless the Minister otherwise directs, section 10 shall apply to any modifications, work or revision undertaken by the Director under this section and to the re-submission of the draft plan or any modification thereof.

(4) Where a draft development plan is submitted to the Executive Council under section paragraph (1) (a), a copy of it shall be deposited at the offices of the Physical Planning Department, at the Anguilla Public Library, and the substance of the plan shall be publicised in the area or areas to which it applies, in such manner the Minister may direct.

(5) Where a draft development plan is accepted by the Executive Council with or without modifications, the Minister shall submit the draft development plan for the approval of the House of

Assembly; whereupon a copy of it shall be deposited at the office of the Physical Planning Department and at the Anguilla Public Library and the substance of the plan shall be publicised in the area or areas to which it applies, in such manner the Minister may direct.

(6) The House of Assembly may approve a development plan with or without modifications or may reject the plan.

Rejection of development plan

12. Where a development plan is rejected by the House of Assembly under section 11(6), the Director shall prepare a fresh plan in accordance with section 9.

Deposit of approved plan

13. (1) When a development plan has been approved by the House of Assembly, it shall be published as a regulation in the *Gazette* and shall come in to force on the date of publication or on such date as may be specified by the House of Assembly.

(2) Copies of a plan shall be available for inspection and purchase at the offices of the Physical Planning Department at such price as may be prescribed.

Modification or revocation of a plan

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

(2) Without prejudice to subsection (1), it shall be the duty of the Director to keep under review the operation of any plan in the light of changing circumstances in Anguilla and in the area to which it applies, and the Director may prepare proposals for the modification or revocation of any plan as he sees fit and shall submit the same to the Minister.

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

Legal status of development plans

15. (1) Where 2 or more development plans have been approved which are in whole or in part for the same area and there is any conflict or discrepancy between them, then—

- (a) the plan drawn to the larger scale shall have precedence; and
- (b) if the plans are drawn to the same scale, the later plan shall be deemed to have modified the earlier plan, unless there is an express provision to the contrary.

(2) When a development plan has been approved—

- (a) it shall be the principal reason for the compulsory acquisition of land designated in that approved development plan as a comprehensive planning area;
- (b) it shall be the duty of all public officers to have due regard to, and so far as is practicable be guided by, the plan in formulating and preparing any project of public investment and development in Anguilla; and
- (c) the Board shall, in considering any application for development permission, give principal consideration to, and be guided by the plan.

(3) When a plan has been prepared but is not yet approved, paragraphs (2)(b) and (c) shall apply as if the plan had been approved.

(4) An approved development plan remains in effect until it has been rescinded by the House of Assembly and a notice to that effect published in the *Gazette*.

PART 4
CONTROL OF DEVELOPMENT OF LAND

Permission required to develop land

16. No person shall carry out any development unless—

- (a) he has a development permit for the development issued under this Act; or
- (b) the development is a permitted development.

Applications for development permits

17. (1) An application for a grant of a development permit shall include such information as may be required by the regulations, or by directions given by the Director, and be—

- (a) made in such manner and accompanied by proof of payment of such application fee as may be prescribed by the regulations made under section 77; and
- (b) submitted to the Board through the Director.

(2) Where the Board is of the opinion that an application made under this part is premature, having regard to—

- (a) the means of access to the land to which the application relates and the need to make provision or better provision before development can be permitted; or
- (b) the prejudicial effect that determination of the application would have on the formulation of a development plan for the area in which the land to which the application relates is situated;

the Board may decline to determine the application and may return the application to the applicant with a notice to that effect not later than 1 month of the receipt of the application.

(3) The Board may grant approval on a preliminary application for development, expressed to be outline permission, the effect of which shall be to consent in principle to the development, subject to the conditions and limitations specified therein and to the subsequent approval of the Board with regard to detailed plans and particulars of the development, but not to permit the carrying out of development until a development permit has been granted.

(4) Where the Board is of the opinion that an application for outline permission made under subsection (3) ought not to be considered separately from the detailed information required under subsection (1), it shall not later than 1 month from the receipt of the application notify the applicant that it is unable to entertain the application for outline permission and shall invite the applicant to submit an application for a development permit.

(5) Notwithstanding subsection (3) and without restricting the generality of subsection (4), the Board shall not entertain applications for outline permission for development for which it is determined that environmental impact assessment is required under section 21 or for development which is subject to the provisions of Part 6.

Requirement for further information

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

- (a) furnish the Director, within such reasonable time as may be prescribed in the notice, with such further information as may be specified in the notice as the Director considers is necessary to enable the Board to determine the application; or
- (b) at his own expense, cause an environmental impact assessment to be done or an environmental

assessment statement to be prepared of the proposed development and submitted to the Director.

(2) Where such further information required under paragraphs (1)(a) and (b) is furnished, the application shall be treated as having been made on the date when the information was received, and the 60 day period provided for the determination of applications in section 24 shall not commence until the date of receipt of further information.

(3) Where an applicant does not furnish the Director with the further information required under paragraphs (1)(a) and (b) within the period prescribed in the notice or such longer period as may be agreed upon between the applicant and the Director, the Board may decline to determine the application and may return the application to the applicant with a notice to that effect, or the Board may refuse to grant a development permit as it thinks fit.

Notification to landowner

19. (1) Every application for permission to develop land shall be accompanied by a certificate signed by the applicant stating that he has notified the owner of the land to which the application relates of his intention to make the application.

(2) Where, within 2 weeks of the date of the application, the owner of the land notifies the Director that he objects to the application, the Director shall cancel the application and return it to the applicant.

Publicity for applications

20. (1) Where the Governor in Council has by regulation designated certain classes of development as likely to derogate from the amenities of the public or of adjacent or nearby properties, and an application is made for permission to carry out development falling within a designated class, the Director may by written notice require the applicant to—

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

(2) Without restricting the generality of subsection (1), the notices referred to in paragraphs (1)(a) and (b) shall be served in respect of any application for permission—

- (a) to deposit, store or otherwise deal with toxic or hazardous waste;
- (b) to develop any manufacturing process which will involve either directly or as waste, the production of toxic or other hazardous substances;
- (c) to construct buildings or for the use of land for the purposes of animal husbandry, plucking of poultry, processing of fish, or use as a slaughterhouse;
- (d) to construct buildings or for the use of land for the purposes of a casino, gambling hall, recreation club, liquor shop, bingo hall, music hall, dance hall, theatre, cinema or sports hall;
- (e) to develop land in an environmental protection area; and
- (f) to carry out any development in connection with which an environmental impact assessment is required.

(3) In determining an application to which this section relates, the Board shall take into account any report, representation or comment submitted or made to it under this section.

(4) Where the applicant fails to comply with the requirements of a notice given under subsection (1), the application shall become null and void.

Environmental impact assessment

21. (1) Subject to the provisions of this section, the Board on advice of the Director may require an environmental impact assessment to be carried out by the applicant in respect of an application for a development permit for any development set out in Schedule 3.

(2) Notwithstanding the provisions of subsection (1), the Board may require an environmental impact assessment in respect of an application for permission for any development (other than development set out in Schedule 3) where the proposed development would be likely to have significant effects on the environment having regard to—

- (a) the nature of the proposed development;
- (b) the geographical scale and location of the proposed development;
- (c) the extent of the changes to the environment likely to be caused by the proposed development;
- (d) the state of knowledge about the nature of the proposed development and its likely impact on the environment;
- (e) any development plan for the area; or
- (f) any other matter as may be prescribed in the Regulations.

(3) This Act does not exempt any development from the requirements imposed upon any such development by any other written law or regulation.

(4) The Board may cause a register of persons with the qualifications, skills, knowledge and experience to carry out environmental impact assessments to be compiled, and a person who is on the register shall be deemed to be approved by the Board to prepare environmental impact statements for Anguilla.

Consultation on applications

22. Any public officer who, or any public authority or any statutory body which, receives a request in writing from the Director for their comments on an application for development permission shall reply to that request within 14 days, or other such period as may be agreed between the Director and the officer, the authority or the statutory body.

Material considerations

23. (1) In considering an application for a development permit, the Board shall give principal consideration to—

- (a) an approved development plan for Anguilla, if any; and
- (b) an approved development plan applicable to the land to which the application relates, if any.

(2) In addition to the considerations referred to in subsection (1), the Board shall take into account such of the following matters as appear to it to be relevant, or as the Director may advise, in order to make a proper decision on the application, namely—

- (a) any representations made by any person with regard to the application or the probable effect of the proposed development;
- (b) any view expressed by any authority consulted under section 22;
- (c) any statement of policy issued by the Minister, including a development plan in the course of preparation or which has been prepared but is not yet approved;
- (d) any information, study or report provided by the applicant in response to a notice served under section 18;
- (e) the likely impact of the proposed development on the natural or built environment;

- (f) the likely impact of the proposed development on public health and safety;
- (g) the social and economic costs and benefits likely to accrue to the community as a result of the proposed development;
- (h) any policies on the use of land for agricultural purposes which have been issued by the Minister responsible for agriculture;
- (i) the suitability of the land for the purposes intended;
- (j) the quality and economy of the proposed development and of its design;
- (k) the proposals made in the application for the means of access to, from and within the development, and for the provision of utility services to the development;
- (l) the availability of water, electricity and waste disposal services;
- (m) traffic considerations;
- (n) the area of land required for the proposed development;
- (o) such other matters as the Director considers to be relevant to the determination of the particular application.

Determination of applications

24. (1) Where an application is made for permission to develop land, the Board may—

- (a) grant a development permit unconditionally;
- (b) grant a development permit subject to such conditions as it thinks fit; or
- (c) refuse permission.

(2) The Director shall notify the applicant in writing of the determination of the application, providing in the case of paragraph (1)(b) or (c)—

- (a) the reasons for the decision; and
- (b) information on the opportunities available to the applicant for appeal against the decision.

(3) Where no decision has been made within 60 days of receipt of the application, the Director shall notify the applicant of the progress made on the application and the extended date by which the decision is likely to be made, being no later than 60 days from the date of notification.

(4) Where no decision is made within 60 days of receipt of the application and no notification of an extended date has been issued to the applicant, that application shall be deemed to have been refused for the purposes of section 66(2)(a) .

(5) For the avoidance of doubt, it is hereby declared that a development permit granted after expiration of the 60 day period referred to in subsection (4) is effective as a development permit for all purposes except those of section 66(2)(a).

Applications inconsistent with development plan

25. (1) If it appears to the Board that an application is inconsistent in some material respect with an approved plan applicable to the area in which the development is proposed, but nevertheless it considers that permission should be granted, the Board shall-

- (a) publish a notice in the *Gazette* and in at least one newspaper circulating in Anguilla notifying

the public—

- (i) that an application which departs from an approved development plan has been received,
 - (ii) of the places where the application may be inspected by persons interested, and
 - (iii) that a public inquiry to examine the application will be held at a place specified in the notice, and at a time not being less than 28 days from the date of the notice;
- (b) invite comments and representations on any such application to be submitted to the Board either orally at the public inquiry or in writing within a specified period not being less than 28 days from the date of the notice; and
- (c) take into account any report, representation, or comment submitted to it under this section, including the findings of the public inquiry held under this section.

(2) When the Board has concluded its consideration of the comments received and the findings of the public inquiry held in respect of the applications, it shall advise the Minister of its findings and recommendations thereon, giving its reasons in writing, and shall determine the application in accordance with the views of the Minister, which shall be given to the Board in writing together with the reasons.

Conditional development permits

26. (1) Without prejudice to the generality of section 24(1)(b), the Board may impose conditions on a development permit which relate to any matter referred to in section 23(2) or which arrange for—

- (a) regulating the manner in which the development authorized by the permit is to be carried out including—
 - (i) the dimensions, design, structure or external disposition of any buildings on the land which is the subject of the development permits,
 - (ii) the location, design or materials of construction of any means of access from the development to a highway,
 - (iii) the disposal of sewage, effluent or trade waste from the development,
 - (iv) the supply of water to the development,
 - (v) the landscaping of the development,
 - (vi) the preservation of trees, vegetation or other natural features of the land where the development is to take place,
 - (vii) the preservation of any buildings or sites of importance to the cultural heritage of Anguilla,
 - (viii) the reservation of any part of the land on which the development is to take place for roads, open space or other public or communal purposes reasonably incidental to the development,
 - (ix) the nature of the materials to be used in any building or engineering operations in the development,
 - (x) the routing of any vehicles or vessels to be used for the purpose of or in connection with the development, or
 - (xi) the removal of materials or waste from such land or adjacent land used for the purpose and the carrying out of any works required for the reinstatement, restoration or preservation of the land and the environment when the development is completed;

- (b) regulating the development or use of any land under the ownership or control of the applicant (whether or not it is land in respect of which the application was made, but where such land is not included in land which is the subject of the development permit, it shall be adjacent to the land which is the subject of the development permit) including the discontinuance of any existing uses of the land or requiring the carrying out of works including the demolition of any buildings on such land or the removal of plant and machinery from the land so far as appears to the Board expedient for the purposes of or in connection with the development authorized by the development permit;
- (c) requiring the removal of any buildings or works authorized by the development permit, or the discontinuance of any use of land so authorized, at the expiration of a specified period and the carrying out of any works required for the reinstatement of the land at the expiration of that period;
- (d) regulating the use which may be made of any building or land authorized by the development permit notwithstanding a regulation made for the purposes of section 17(1);
- (e) controlling or prohibiting the display on the land comprising the development of any advertisement including the size, shape, colour or location of any such advertisement;
- (f) requiring continuous environmental monitoring of the development authorized by the development permit;
- (g) regulating the hours of work during which the development authorized by the development permit may operate;
- (h) the retention of any existing development or use of land to which the application relates, for a specified period;
- (i) the payment of money or money's worth or the conveyance of land to the Board in lieu of works required under the development permit; or
- (j) the entering into a performance bond with the Board to guarantee the implementation of any of the conditions subject to which the grant of the development permit is made.

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

(3) A development permit granted subject to any such condition as is referred to in paragraph (1)(c) is in this Act referred to as a "temporary development permit".

(4) No claim to compensation shall lie against the Crown, the Minister, the Board, the Director or any other public officer in connection with or arising out of the grant by the Board of a development permit subject to conditions.

Development agreements

27. (1) The Board may, on the advice of the Director and with the consent of the Minister, and the consent of any other government authority who may be a party to the agreement, enter into an agreement containing such terms and conditions as it thinks fit with the applicant for a development permit or with any other person interested in that land for the purpose of regulating the development of land proposed by the application.

(2) Without restricting the generality of subsection (1), terms and conditions may be included in an agreement—

- (a) covering any matter in respect of which conditions may be imposed on a development permit;

- (b) providing for contribution (whether of works, money or land) by the applicant towards the provision of services, facilities (including their future maintenance) and amenities in the area in which the proposed development is to be carried out; and
- (c) for the provision of security by the applicant for ensuring due compliance with the agreement.

(3) An agreement made under this section with any person interested in the land may be enforced by the Board against persons deriving title under that person in respect of that land as if the Board were possessed of adjacent land and as if the agreement had been expressed to be made for the benefit of such land.

Performance bonds

28. (1) Where the Board requires, as a condition imposed on a development permit to develop land under section 26 or as a term of an agreement made under section 27, that an applicant or, as the case may be, a person with whom it makes an agreement, provides a bond as security for the performance of the agreement, the Board shall require a charge on the land to which the permit or agreement relates as appears to it to be expedient and proper to ensure that the bond may be enforced.

(2) The Board may enforce a bond entered into by an applicant for permission to develop land under section 26, or by a person with whom it has made an agreement under section 27, by all appropriate legal and equitable remedies.

Lapse of development permit

29. (1) Outline permission shall be granted subject to a condition that if no development permit covering the same development has been applied for within 1 year of the grant of outline permission, or such longer period as may be specified in the grant of outline permission or as may be authorized by the Board in any particular case, that outline permission shall lapse and cease to have any force or effect.

(2) Where in accordance with the provisions of this section an outline permission has expired, an application for a development permit in respect of that expired outline permission may be refused without any liability to pay compensation under section 60.

(3) A development permit shall be granted subject to a condition that it shall lapse and cease to have effect if the development to which it relates has not commenced within 1 year of the grant of the development permit, or such longer period as may be authorized by the Board in any particular case. For the purpose of this subsection, development means carrying out of work at a cost of 10 percent of the estimated cost of the development.

(4) Where a development permit provides for different parts of the development to commence at different times, the provisions of this section shall apply to those separate parts of the development as if the development permit was granted for each separate part or stage of the development.

(5) The Board may serve written notice on a person who has commenced but not completed, within the time prescribed therefor, the development for which he has obtained a development permit, requiring that person to complete the development within the time specified in such notice, and stating that if the development is not completed within that period the development permit will cease to have effect after the expiration of a further period specified in the notice.

(6) Upon expiration of the further period specified in a notice served under subsection (5), the development permit shall cease to be valid or to have any effect and any further development or work carried out with respect to that development permit shall be a breach of planning control.

Supplementary provisions as to development permits

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

(2) Where a temporary development permit is granted in accordance with section 26(1)(c), at the

expiration of the period specified therein, the use of the land for the purpose for which it was used before the grant of the temporary development permit may be resumed without express grant of a development permit only if that use was a lawful use.

(3) Where a development permit is granted for the erection of a building, the permit shall specify the purposes for which the building may be used.

(4) A development permit may include permission, with or without conditions, to retain on land buildings or works constructed or carried out thereon before the date of the application or for the continuance of any use of land instituted before that date (whether without a permit granted under this Part or in accordance with a temporary development permit).

Minor variation of development permit

31. (1) The Director, acting on behalf of the Board, may approve a minor variation to a development permit which in his opinion does not alter or affect the terms and conditions of the development permit in any material respect, and in such event the Director shall inform the Board of the action which he has taken in that particular case.

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

Modification or revocation of development permit

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

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

- (a) where the development permit relates to the carrying out of building or other operations at any time before those operations have been completed; or
- (b) where the development permit relates only to the making of a material change in the use of building or other land, at any time before the change has taken place.

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

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

- (a) a statement of the reasons for the modification or revocation;
- (b) such directions as the Board considers necessary for the bringing to an end any development to which the notice relates;
- (c) information as to any claim for compensation that may arise in consequence of the modification or revocation, and the procedure for making any claim for compensation;
- (d) information as to the right of appeal under Part 9; and
- (e) such other matters as may be prescribed.

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

(6) Notwithstanding subsection (5), the Board, after considering any representations made in respect

of such a notice, may at any time cancel or withdraw that notice.

(7) An appeal shall lie under Part 9 against the issue of a notice by the Board under subsection (1), or against the refusal of the Board to cancel or withdraw such notice under subsection (6).

(8) Pending the determination of any such appeal referred to in subsection (7), the notice concerned is deemed to be suspended in its operation, except that any further development or work carried out shall be a breach of planning control.

PART 5 ENFORCEMENT

Enforcement notice

33. (1) Where it appears to the Director —

- (a) that any development of land has been carried out without a development permit required under Part 4; or
- (b) that any conditions or limitations subject to which a development permit was granted have not been complied with;

then the Board may within the period specified in subsection (2), if it considers it expedient to do so having regard to any development plan applicable to the land where the breach of planning control is alleged to have taken place, and to other material considerations such as are set out in sections 23 and 34, serve an enforcement notice in accordance with subsection (5) requiring the breach to be remedied.

(2) Where the enforcement notice alleges a breach of planning control relating to development other than the making of a material change in the use of building or other or the subdivision of land, the period within which an enforcement notice may be served shall be 4 years.

(3) A copy of the enforcement notice shall be served on the owner and on the occupier of the land to which it relates, on any other person having a material interest in the land, on the authorized representatives of the aforementioned persons, and on any other person carrying on or in control of a person carrying on activities on the land which are alleged to constitute the breach of planning control, but the fact that the Board fails to serve it on any one or other of the persons mentioned herein shall not invalidate any action or proceedings against any other of such persons.

(4) An enforcement notice shall take effect on the date specified in it (in this Part referred to as the “specified date”).

(5) An enforcement notice shall be served not later than 14 days from the date of issue and not later than 28 days before the specified date.

(6) An enforcement notice shall state clearly—

- (a) which breaches of paragraphs (1)(a) or (b) are alleged to have taken place;
- (b) the particulars of development which appear to constitute the breach;
- (c) the person or persons on whom it is served in accordance with subsection (5);
- (d) the steps which the Board requires to be taken by a person on whom an enforcement notice has been served to remedy the breach and a reasonable time within which they must be taken;
- (e) the powers of the Board, in case of default in compliance with the notice, to enter upon the land and take the steps specified in paragraph (d);
- (f) the penalties which may be incurred if the steps specified in paragraph (d) are not taken; and

- (g) the opportunities which are available to the person or persons on whom the copy of the enforcement notice was served to appeal against the notice.

(7) The steps which the Board may require to be taken by a person on whom an enforcement notice has been served to remedy the breach to which the enforcement notice relates, may be all or any of the following namely—

- (a) to restore land as near as may be to the appearance and state that it had before the breach took place, including replacement of soil, planting or replanting of trees and other vegetation;
- (b) to comply with any limitation or condition in a development permit;
- (c) to demolish or remove a building in whole or in part;
- (d) to carry out any building or other operations on the land to which the notice relates;
- (e) to discontinue any use of land or buildings;
- (f) to remove anything placed on the land without a development permit;
- (g) to remove any advertisement or to display it in the place permitted by a development permit;
- (h) to remove any unauthorized marks of identification in, on, or over land which have as their purpose the identification of a boundary of a subdivision alleged to constitute a breach of planning control;
- (i) to remove or prevent any damage to the land or amenities of the area which has been or is likely to be caused by the development which constitutes the breach of planning control;
- (j) to do or to refrain from doing, or to take or to refrain from taking any actions similar to those listed in paragraphs (a) to (i) which would assist in the ending of the unauthorized development.

(8) The Board may—

- (a) withdraw an enforcement notice (without prejudice to its power to issue another one in respect of the same breach of planning control); or
- (b) modify an enforcement notice and if it does so, the provisions of this section shall apply to any modification of an enforcement notice made under this section in the same manner as they apply to the enforcement notice.

Material considerations with respect to enforcement notices

34. In considering whether or not an enforcement notice shall be served, the Board shall take into account such of the following matters as may be relevant in the circumstances of the particular case namely—

- (a) any development plan applicable to the land where the breach of planning control is alleged to have taken place;
- (b) any statement of policy issued by the Minister which is relevant to the development;
- (c) the nature and extent of the development which constitutes the alleged breach;
- (d) the extent or likely extent of damage to the natural or built environment;
- (e) the extent to which the development constitutes a nuisance or a threat to public health and safety;
- (f) any objections and representations made by persons in the neighbourhood;

- (g) the length of time the breach of control has continued;
- (h) the expense likely to be involved in compliance with the notice by the person who may be, or has been served with the notice, and his capacity to meet that expense;
- (i) the benefits to the community (if any) resulting from the development;
- (j) any possible alternative measures which could be taken to remedy the unauthorized development;
- (k) the effect of the development on any public works;
- (l) whether it is necessary, desirable and convenient, having regard to the public interest, to serve or confirm an enforcement notice;
- (m) any other material considerations.

Notice to apply for development permit

35. (1) The Director may, in any case in which he considers that a breach of planning control has taken place, by written notice served on the person or persons referred to in section 29(6) or 32(5), require that an application shall be submitted for a development permit and in such case the Board shall refrain from issuing an enforcement notice if such application for a development permit is submitted within 28 days of the service of such notice or such extended period as may be agreed.

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

Suspension of effect of enforcement notice

36. If, within 28 days of the service of the enforcement notice—

- (a) an application is made to the Board for permission for the retention on the land of any buildings or works to which the enforcement notice relates, or for the continuance of any use of the land to which the enforcement notice relates; or
- (b) notice of an appeal is given under section 66 by a person on whom the enforcement notice was served;

the enforcement notice shall be suspended and shall not take effect pending the determination of the application or appeal.

Stop notice

37. (1) Where the Board has served an enforcement notice in respect of any land, the Board may, at any time before the enforcement notice takes effect, serve a further notice (in this Act referred to as a “stop notice”) referring to, and having annexed to it, a copy of the enforcement notice and prohibiting any person on whom the stop notice is served from carrying out or continuing any unauthorized development on the land, being activities either alleged in the enforcement notice to constitute a breach of planning control or so closely associated therewith as to constitute substantially the same development.

(2) The unauthorized development which may be the subject of a stop notice shall include the deposit of refuse or waste materials on land or causing environmental damage or actions affecting the health or safety of persons where such action is a breach of planning control alleged in the enforcement notice.

(3) A stop notice may be served by the Board on any person who has an interest in the land or appears to the Board to be concerned with carrying out or continuance of any unauthorized development thereon.

(4) A stop notice shall—

- (a) take effect from the date of its service; and
- (b) without prejudice to subsection (7), cease to have effect when—
 - (i) the enforcement notice to which it relates is withdrawn or quashed,
 - (ii) the compliance period expires, or
 - (iii) notice of the withdrawal of the stop notice is served under subsection (7).

(5) If a person on whom a stop notice is served carries out, or causes or permits to be carried out, any unauthorized development prohibited by the notice, he commits an offence and is liable on summary conviction to a fine of \$40,000, and if the offence is continued after conviction he shall be liable to a further fine of \$1,000 for each day on which the offence continues.

(6) A stop notice shall not be invalid by reason that the enforcement notice to which it relates was not served as required by section 33 if it is shown that the Board took all such steps as were reasonably practicable to effect proper service.

(7) The Board may at any time withdraw a stop notice (without prejudice to their power to serve another) by serving notice to that effect on the person on whom the stop notice was served and the stop notice shall cease to have effect as from the date of withdrawal.

Injunctions

38. In addition to any other remedy provided by this Act, the Board may in any case that it thinks fit, institute a civil action for an injunction to prevent any person from violating the provisions of this Act, or to enforce any enforcement notice or stop notice.

Action by Board for non-compliance with enforcement notice

39. (1) If a person on whom the notice was served fails or refuses to take the steps required by the enforcement notice to remedy the breach of planning control within the period specified in the enforcement notice, the Board may authorize the Director to enter the land with such assistance as may be necessary and take those steps in respect of the unauthorized development to enforce the notice as it may see fit.

(2) When the Board has exercised any power under subsection (1), it may recover as a civil debt from the person on whom the notice has been served those expenses reasonably incurred by it in the exercise of such power, and, if that person, having been entitled to appeal under section 40, has failed to make such an appeal, he shall not be entitled in any proceedings to dispute the validity of the action taken by the Board or the Director upon any ground that could have been entertained on such an appeal.

(3) Nothing in this Part shall be construed as requiring that a development permit shall be obtained for the use of land for the purpose for which it could lawfully have been used if the development in respect of which an enforcement notice was served under section 33 had not been carried out.

Appeal against enforcement notice

40. (1) If any person on whom an enforcement notice is served is aggrieved by the enforcement notice, he may at any time within 28 days of the service of the notice, appeal against the enforcement notice under section 66, and on any such appeal, the Appeals Tribunal—

- (a) if satisfied that a development permit was granted under Part 4 for the development to which the enforcement notice relates, or that no such permit was required in respect thereof, or, as the case may be, that the conditions subject to which such permit was granted have been complied with, shall quash the enforcement notice to which the appeal relates;
- (b) if satisfied that a variation of the enforcement notice would be appropriate, may vary the enforcement notice accordingly; or

(c) in any other case shall dismiss the appeal.

(2) Where the enforcement notice is varied or the appeal is dismissed the Board may, if it thinks fit, direct that the enforcement notice shall not come into force until a date not being later than 28 days from the determination of the appeal.

Continuing operation of enforcement notice

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

(2) Without restricting the generality of subsection (1), where any development is carried out by way of reinstating or restoring buildings or works that have been demolished or altered in accordance with an enforcement notice, the enforcement notice shall, notwithstanding that its terms are no longer wholly apt for the purpose, be deemed to apply in relation to any building or works so reinstated or restored as it applied in relation to such building or works before they were demolished or altered, and section 39(1) and (2) shall apply accordingly.

(3) Without affecting the operation of section 39, a person who, without having obtained a development permit, carries out any development on land by way of reinstating or restoring buildings or works that have been demolished or altered in accordance with an enforcement notice is liable on summary conviction to a fine of \$25,000.

Notice requiring discontinuance of the use or alteration or removal of building or works

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

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

(2) The provisions of section 33(4) to (8) inclusive, and the provisions of sections 34, 36, 39, 40 and 41, shall apply to a notice served under subsection (1) in like manner to an enforcement notice served under section 33, save that—

- (a) references to an enforcement notice in those provisions shall have effect as if they were references to a notice served under subsection (1);
- (b) references to a breach of planning control shall have effect as if they were references to the use of land or the buildings or works specified in the notice served under subsection (1);
- (c) where a claim for compensation has been submitted under section 60, section 39 (recovery of expenses incurred by the Board in enforcing a notice, on non-compliance by the recipient of the notice) shall be exercisable only by way of counterclaim, to be offset against the claim for compensation;
- (d) section 40(1)(a) shall not apply;
- (e) references to “remedy” the breach of planning control shall have effect as if they were references to the carrying out of the acts and works required under the notice served under subsection (1) and, notwithstanding the adoption of the provisions for the purposes of this section, it shall not be imputed that work previously carried out under a valid development

permit shall be retrospectively deemed unauthorized.

PART 6
ENVIRONMENTAL PROTECTION

Plant preservation orders

43. (1) Where the Board, after consultation with the agency or department 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, it may make a plant preservation order with respect to such plant, group or species of plant.

(2) Any person who, without the permission of the Board, cuts down, tops, lops, digs up or destroys the plant, group or species of plants, to which a plant preservation order applies is guilty of 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, or 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 or 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 full force and effect 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*.

Amenity orders

44. (1) In any case in which the Director 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 or articles or materials of any kind, or the dilapidated state of any structure or building thereon;

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

(2) An amenity order shall 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 authorized 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; and
- (g) where the Director is aware that the occupier of land to which an amenity order is made is not the owner, the action that is required to be taken by the occupier and the action to be taken by the owner.

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

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

(5) Where the order is approved by the Board, 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 Board, the Board may arrange for the work to be carried out at the expense of the person who is in default and may recover the cost of so doing as a civil debt from the person in default.

Appeal against amenity orders

45. (1) Any person upon whom an amenity order has been served under the provisions of section 44 may appeal to the Appeals Tribunal against the making or terms of such order.

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

- (a) the person upon whom an order has been served is not an owner or occupier of the land to which the order applies;
- (b) the person upon whom the notice has been served has no control over and no authority to remove, destroy or demolish any matter or building referred to in the order;
- (c) the time within which the order must be complied with is not reasonably sufficient for the purpose;
- (d) the work specified in the order is unreasonable in character or extent or is unnecessary;
- (e) that having regard to the character and condition of land and buildings in the immediate neighbourhood, the order is unreasonable.

(3) On an appeal under this section, the Appeals Tribunal 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 is suspended pending the determination of the appeal.

Control of advertisements

46. (1) Subject to this section, provision may be made by regulation under this Act for prohibiting the

display of advertisements, 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 Board 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 Part 4 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 Board 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 this Part with respect to enforcement notices, subject to such adaptations and modifications as may be specified in the regulations; or
- (e) for the constitution, for the purposes of the regulations, of such Appeals Tribunals as may be prescribed by the regulations, and for determining the manner in which the expenses of any such Appeals Tribunals are to be defrayed.

(2) Subject to section 47, regulations made for the purpose of 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 for the purpose of this section shall provide for the exempting therefrom of—

- (a) the continued display of any such advertisement as referred to in subsection (2); and
- (b) the continued use for the display of advertisements of any such site as referred to in subsection (2);

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.

(4) Regulations made for the purpose of this section may direct that any Act or regulations 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; and
- (b) with respect to areas defined for the purposes of the regulations as areas of special control, being areas which appear to the Board to require special protection on the grounds of amenity.

(6) In exercising the powers conferred by this section, the Board 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

47. (1) Where the display of advertisements in accordance with regulations made for the purpose of section 46 involves the development of land within the meaning of this Act, 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 4.

(2) Without prejudice to any other provisions, if any person displays an advertisement in contravention of the provisions of the regulations, he is liable on summary conviction to a fine of \$5,000 and, in case of a continuing offence, to a further fine of \$300 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

48. (1) The Director may, and if so directed by the Minister, shall cause a survey to be made of the whole or any part of Anguilla, either independently of or as part of a development plan made under Part 3, with a view to determining whether any area of Anguilla 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 Director shall—

- (a) take such steps as in his opinion will ensure that adequate publicity is given to the 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 agency or department responsible for the environment and any other person, body or authority who appears appropriate as being interested in or having special knowledge of 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 Minister 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, 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,
- (vi) the characteristics, circumstances and interests of the people living and working in the area.

(4) Where the Director is of the opinion that any area ought to be declared an environmental protection area, he shall submit to the Minister—

- (a) his 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

49. (1) The Minister shall consider the report of the Director and shall, in determining whether to declare any area to be an environmental protection area, have regard to the matters set out in section 48(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 48(3), he may with the approval of the Governor in Council by order published in the *Gazette* 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 only certain development or classes of development may be permitted under Part 4;
- (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 Part 4, require that any person who proposes to undertake any activity or enterprise (not being an activity or an enterprise involving development) of a description or category as may be prescribed shall, no less than 60 days before commencing, notify the Board of his proposals and furnish to the Board such documents and information as it may require;
- (f) require that an 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.

Provisions with respect to land in environmental protection areas

50. 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 Crown 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 Crown 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 60, provided that if agreement cannot be reached between the Crown 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

51. (1) The Director 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 49.

(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, landslip 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; or
- (j) the development of facilities for educational visits, study and research of the special features of the environmental protection area.

Ministerial order to protect the environment

52. (1) Where the Minister is satisfied from information received from the Director 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*, direct the Director 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 Director shall act in accordance with such order.

(2) An order under subsection (1) may be made to extend to the whole of Anguilla 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 have an effect on a resolution of the House of Assembly.

(4) The Director shall cause a copy of every order made under this section to be posted in a conspicuous place as the Director may decide.

(5) Any person who—

- (a) obstructs any person in carrying out any measures authorized 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 of \$20,000.

PART 7

BUILDING REGULATIONS

Application of building control

53. (1) Where a development permit has been obtained for building operations under Part 4, or where the building operations constitute a permitted development under this Act, no person shall carry on the building operations of a building without first obtaining a building permit in respect of that building issued by the Board under this Part.

(2) An application for a building permit under this Part may be made at the same time that an application is made for a development permit for building operations under Part 4 or at any time after a development permit for building operations has been granted and before it has lapsed or been revoked.

Building regulations

54. (1) The Governor in Council may make regulations with respect to the design and construction of buildings and the provision of services, fittings and equipment in or in connection with buildings and particularly with respect to the following matters—

(a) as to new buildings—

- (i) the preparation and foundations of the site,
- (ii) the method of construction, structural strength and stability,
- (iii) the 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, or

(xvii) low cost housing,

and any matters connected with, or ancillary to, any of the foregoing matters;

(b) as to existing buildings, structural alterations or extensions to buildings;

(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;

(d) generally, for carrying out the purposes or provisions of this Part.

(2) 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.

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

(a) the preparation of plans, sections, specifications and written particulars required in application for a building permit;

(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 Board or a building inspector of samples of materials to be used in the construction of buildings or in the execution of other works; and

(c) the payment of fees.

Building permits

55. (1) Where an application for a building permit is made to the Director in accordance with building regulations, the Director shall issue a building permit, unless—

(a) the plans on application are defective;

(b) the building contravenes 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 Board together with his advice thereon.

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

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

(4) On receipt of any plans on a referral by the Director under subsection (1), the Board may—

(a) refuse to grant a building permit;

- (b) grant a building permit subject to either or both of the following conditions, namely—
 - (i) that such modifications shall be made to the deposited plans as the Board may specify,
 - (ii) that such further plans shall be deposited within such time as the Board may specify,
 in order to bring the building into conformity with building regulations; or
- (c) if the Board is advised by the Director in the manner indicated by subsection (2), it may relax or dispense with the requirements of building regulations mentioned in that recommendation and issue a building permit.

(5) An applicant for a building permit shall within 60 days, or such extended time as may be agreed to between him and the Board, be notified in writing by the Director whether a building permit will be granted or refused.

(6) A notice of refusal 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 building permit has been refused.

- (7) A building permit shall—
 - (a) specify any condition subject to which it has been granted; and
 - (b) where the building permit has been granted by the Board 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.
- (8) Any question arising between the Board or the Director and the applicant as to whether—
 - (a) the plans are defective;
 - (b) the building 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 appeal of the applicant be determined by the Executive Council on the advice of the Appeals Tribunal, but no such appeal may be made unless it is made before the proposed work has been substantially commenced.

Power to require removal or alteration of work

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

(2) If 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 Board may on his application allow, the Board may request any department or public officer or any contractor engaged by any of them to pull down the work, or to effect such alterations therein and the Board 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 Board or of the Attorney General or any other person to apply for an injunction for the removal or alteration of any work on the grounds that it contravenes the building regulations or any provision of this Part.

Appeal against notices under section 56

57. (1) A person aggrieved by the giving of a notice under section 56 may appeal to the High Court.

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

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

(3) An appeal under this section shall be brought within 28 days of the giving of notice under section 56 and the notice shall be of no effect pending the final determination or withdrawal of the appeal.

Commencement and completion notices

58. (1) Where a building permit has been issued, no building operations shall be carried out until the builder has given notice in writing to the Director of the intention to commence construction.

(2) Where the Director has been notified in writing by the builder that building operations have been completed, the Director shall certify if the building has been constructed in accordance with the building permit and regulations and is fit for occupancy.

Lapse of building permit

59. Where an application for a building permit has been made in accordance with building regulations or this Part, and a building permit has been granted in accordance with this Part, and the building to which the plans relate has not been completed within 10 years of the application, the building permit shall be invalid and of no effect. The lapse of the building permit does not absolve a person from applying for a development permit to complete the building.

PART 8

COMPENSATION AND ACQUISITION

Claim for compensation

60. (1) If on a claim for compensation made to the Crown in the manner prescribed it is shown that—

(a) where a development permit has been revoked or modified by notice under section 32—

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

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

(i) the making of a notice under section 42 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, or

(ii) the making of an environmental protection area order under section 49;

then the Crown 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 permit if—

- (a) the development permitted by the development permit 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 permit relates for valuable consideration, after the grant of that development permit and such development permit, at the material time, had not lapsed under section 29.

(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 a development permit 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 permit.

(5) If a person has suffered loss or damage consisting of depreciation in the value of an interest in land by virtue of a planning decision referred to in subsection (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.

(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 Board which, after making such inquiries as it thinks fit, shall submit its own recommendation on the matter to the Minister;
- (b) where 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 Tribunal for its advice as if the claim for compensation had included an appeal against the decision which gave rise to the claim; or
- (c) where such a 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, and the provisions of the Land Acquisition Act shall apply *mutatis mutandis* to the assessment of compensation payable under this Part.

Position where land is subject to mortgage

61. 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.

Registration of claim for compensation

62. Where a claim for compensation is made under section 60, notice of the fact shall be recorded in the register of planning applications.

Acquisition of land in lieu of compensation

63. Where a claim for compensation under this Part in respect of any interest in land has been determined in accordance with section 60, the Minister may, within 1 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.

Purchase notice with respect to adverse decisions

- 64.** (1) Where any person having an interest in land for which—
- (a) a development permit has been refused and there is available with respect to that land no development permit to which this Act applies;
 - (b) a development permit has been revoked or modified by imposition of conditions;
 - (c) a discontinuance notice has been served under section 42; or
 - (d) an environmental protection area order has been made under section 49;

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 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 Minister a purchase notice requiring the Crown to purchase his interest in the land.

(2) Where the purchase notice served under subsection (1) relates to the refusal of a development permit, the making of a modification or revocation notice or the making of a discontinuance notice, the Minister may, if he considers it expedient so to do, refer it to the Executive Council for reconsideration of the refusal to grant a development permit.

- (3) The Executive Council may—
- (a) refuse to confirm the purchase notice;
 - (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 or the environmental protection area, order as the case may be, shall confirm the purchase notice; or
 - (c) instead of confirming the notice—
 - (i) direct the Board to grant a development permit to any development in question,
 - (ii) cancel or amend the modification or revocation notice, or

(iii) revoke or amend the discontinuance notice.

(4) Where the Executive Council confirms a purchase notice, the Crown 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.

PART 9 APPEALS

Establishment of Appeals Tribunal

65. (1) There is hereby established an Appeals Tribunal which has the jurisdiction, power and authority conferred upon it by this Part and by any regulations.

(2) It shall be the primary function of the Appeals Tribunal to examine the issues between the parties and to determine the merits of an appeal having regard to the purposes of this Act set out in section 2, the need to secure consistency in the execution of policy, any approved development plan relevant to the issues and any other material planning considerations.

Right of appeal

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

(2) An appeal shall lie to the Appeals Tribunal against any decision made by the Board under this Act—

- (a) refusing to grant a development permit;
- (b) imposing conditions on a grant of development permission;
- (c) refusing consent to display an advertisement;
- (d) imposing conditions on a grant of consent to display an advertisement;
- (e) refusing a building permit;
- (f) refusing to relax or dispense with the requirements of the building regulations;
- (g) modifying or revoking a development permit;
- (h) requiring the completion of a development within a time limit;
- (i) imposing a plant preservation order;
- (j) making an amenity order, on any of the grounds mentioned in section 45(2);
- (k) issuing an enforcement notice or as to the terms thereof; and
- (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, any person wishing to appeal under subsection (2) shall—

- (a) within 28 days of the date of receipt of the notice or order which is to be appealed against under paragraphs (2)(a) to (j); or

- (b) 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 paragraphs (2)(k) and (l);

send a notice of appeal to the Secretary of the Appeals Tribunal who shall forthwith on receipt thereof send a copy of such notice to the Director and the Board.

(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) Where notice is given under subsection (3), the Director shall forward to the Appeals Tribunal—

- (a) a copy of all papers and documents submitted by the appellant or any person acting on his behalf to the Board;
- (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 Tribunal 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 land affected by the decision to justify him appealing against the decision.

(7) Where a notice of appeal is not rejected under subsection (6), the Appeals Tribunal may direct that the appeal 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 Board accordingly.

(8) The Appeals Tribunal shall take the following matters into consideration before deciding whether the appeal may be dealt with by written representation or by public inquiry—

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

(9) Where the Appeal Tribunal decides that a public inquiry shall be held, it shall notify the appellant and the Board 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*.

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

Appeals by written representation

67. (1) Whenever the Appeals Tribunal has directed that an appeal to which section 66 relates shall be dealt with by written representations, it shall send a copy of the direction to the appellant and to the Board and each of them shall within 6 weeks thereafter send to the Appeals Tribunal and to the other of them such written representations as they wish to make in relation to the appeal (herein referred to as “written representations”).

(2) Within 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 Board shall send to the Appeals Tribunal 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) In considering an appeal by written representations, the Appeals Tribunal shall not—

- (a) receive any oral evidence or submissions; 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 Board (as the circumstances require) 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 Tribunal’s findings of fact in relation to any relevant matter;
- (e) a full and clear account of the reasoning of the Appeals Tribunal on which its decision is based; and
- (f) the determination of the Appeals Tribunal as to the manner in which the appeal should be disposed of.

(5) The Appeals Tribunal shall, following the expiration of the period specified in subsection (2), decide the appeal and in doing so shall have like powers to those under section 69(1).

Procedure at public inquiries

68. (1) Subject to the provisions of this Act and any regulations made thereunder, the Appeals Tribunal may determine the procedure to be followed at any public inquiry as appears to it most convenient to enable the functions referred to in section 65(2) to be fulfilled without being bound to adopt such procedure as might be appropriate in a court, provided that the Appeals Tribunal 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.

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

- (a) there may be given and received in evidence at a public inquiry any material which the Appeals Tribunal may consider relevant to the subject matter of the inquiry, whether or not it would be admissible in a court of law;
- (b) evidence at a public inquiry may be given on oath or affirmation or as unsworn evidence or partly as sworn evidence and partly as unsworn evidence, as the Appeals Tribunal may think

fit; and

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

(3) The record to be kept of all public inquiries held by the Appeals Tribunal under this section shall contain—

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

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

Decision and notification of appeal

69. (1) The Appeals Tribunal, after hearing the appeal, may—

- (a) allow the appeal in whole or in part and quash the decision of the Board;
- (b) if it allows the appeal in part, do so by varying the decision of the Board in any manner and subject to any conditions or limitations it thinks fit, but not so as to impose any condition or requirement that the Board 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 Board appealed against; or
- (d) dismiss the appeal and confirm the decision of the Board.

(2) As soon as reasonably practicable after the decision of the Appeals Tribunal, the secretary of the Appeals Tribunal shall send to the appellant, the Board and the Minister written notification of the determination of the appeal together with full and clear reasons for the determination.

Appeals to a court

70. (1) Subject to the provisions of this Act, no appeal shall lie against a decision of the Board in a matter to which section 66 relates otherwise than as provided for by sections 66 to 69 nor shall any such decision or order be reviewable in any manner by any court.

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

(3) An appeal shall lie to the High Court from a decision of the Appeals tribunal 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 Board or the Appeal Tribunal 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 Tribunal.

PART 10
MISCELLANEOUS AND SUPPLEMENTARY

Powers of entry

71. (1) Subject to subsection (2), the Minister, any member of the Board, the Director, or any person authorized by him in writing, may during all reasonable time enter on any land or in any building—

- (a) to carry out any investigation in connection with the preparation of any development plan under the provisions of Part 3;
- (b) to obtain information relevant to the determination of any application for a development permit or for any consent, licence or permit under this Act;
- (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 should be made under Part 6 or for the exercise of any powers conferred by any such order;
- (e) for the purposes of determining whether or not any compensation is payable under Part 8, or as to the amount thereof; or
- (f) to ensure compliance with the Act and Regulations.

(2) Any person who proposes to enter on any land or building under the provisions of this section, shall give such owner or occupier reasonable 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 subsoil, that fact shall be stated in the notice.

(3) Before exercising any powers under this section, the Director 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 Director or other person concerned to make such examination and inquiries as are necessary to achieve the purposes for which the entry was authorized.

(5) If any damage is caused by reason of the exercise of any right of entry conferred by this section, or in the making of any survey for the purpose for which such right of entry was conferred, or by the wrongful or negligent use of powers conferred, or alleged to have been conferred by this section, the Crown as soon as may be after such entry shall pay compensation to the person injured thereby, provided that if the amount of such compensation cannot be agreed, the amount payable shall be determined in the same manner as compensation payable under section 61, and the Director shall refer the matter accordingly.

(6) Nothing in subsections (2) or (5) applies in respect of any work or operation which the Minister, the Board, or any public officer is authorized to do or carry out in relation to any building or land under Part 7 or the building regulations and for the purposes of Part 7 and those regulations it is declared that the Minister, the Board and any public officer has a right to enter on any land or in any building at all reasonable hours—

- (a) for the purpose of ascertaining whether there is, or has been, on or in connection with the premises, a contravention of Part 7;
- (b) for the purpose of ascertaining whether or not circumstances exist that would authorize or

require the Board to take any action, or execute any work, under Part 7;

- (c) for the purpose of taking any action, or executing any work, authorized or required by Part 7 of this Act or by notice made under Part 7; or
- (d) generally for the purpose of the performance by the Board of its functions under Part 7.

(7) Any person who hinders or obstructs the Board or any public officer in the exercise of any power of entry commits an offence and shall be liable on summary conviction to a fine of \$5,000 or to imprisonment for 6 months.

Service of notices

72. Any notice or other document required or authorized 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 by registered mail 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 Anguilla, or by sending it by registered mail addressed to the secretary or other officer of that body at that office.

Power to require information

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

(2) Any person who, having been required in pursuance of this section to give any such information, without reasonable cause fails to give that information within 28 days of being so required, or such longer period as the Director may allow in any particular case, shall be guilty of an offence and is liable on summary conviction to a fine of \$500.

Register of planning and associated decisions

74. (1) The Director shall maintain a register of all—

- (a) applications for development permits;
- (b) decisions on applications referred to in paragraph (a) and any conditions attached to development permits;
- (c) notices of modification or revocation of development permits;
- (d) enforcement notices, stop notices, injunctions and discontinuance notices;
- (e) any orders made or notices served under Part 6;
- (f) applications for building permits;
- (g) decisions on applications for building permits and any conditions attached to permits granted;
- (h) development agreements under section 27;

- (i) purchase offers made under section 64;
- (j) applications for express consent to display advertisements under section 46;
- (k) claims for compensation under section 61; and
- (l) decisions on appeals against any decisions made or action taken under this Act.

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

(3) The register required to be maintained by subsection (1) may include an index which may 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.

Death of person having claim or right

75. 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 representatives.

Offences

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

(a) fails to comply with the requirements of—

- (i) an enforcement notice issued under section 33,
- (ii) a notice to discontinue use or to alter or remove buildings or works issued under section 42,
- (iii) a plant preservation order made under section 43, or
- (iv) an amenity order made under section 44;

(b) wilfully gives false information, relating to any matter in respect of which he is required to give information under this Act;

(c) obstructs any person in the exercise of any powers or the performance of any duties under this Act; or

(d) fails to comply with any regulations made with respect to the control of any activities in, or the management of, any environmental protection area;

shall be guilty of an offence and liable—

- (i) on summary conviction, to a fine of \$25,000, and if, in the case of a continuing offence, the contravention is after such conviction, he shall be guilty of a further offence and is liable to a fine of \$1,000 for each day on which the contravention continues, or
- (ii) on conviction on indictment, to a fine of \$50,000, or to imprisonment for 6 months, or to both.

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

Regulations

77. (1) The Governor in Council may make regulations for the purpose of giving effect to the principles and provisions of this Act.

(2) Without prejudice to the generality of the power conferred by subsection (1), any such regulation 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 development permits,
 - (ii) consultation on applications for development permission,
 - (iii) enforcement notices,
 - (iv) the modification or revocation of a development permit,
 - (v) claims for compensation,
 - (vi) purchase notices, and
 - (viii) publicity for applications for certain classes of developments;
- (d) the grant of permission for any class or classes of development specified in the regulation, either unconditionally or subject to such conditions or limitations as may be specified in the regulation, without the requirement for the making of an application for a development permit;
- (e) the designation of classes of development which are likely to derogate from amenity under section 20;
- (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) fees payable for the purposes of the Act;
- (i) the procedures of the Board;
- (j) the qualifications required of persons signing forms, plans and drawings on behalf of any applicant for a development permit or building permit and the qualifications required of persons preparing environmental impact statements;
- (k) the control of advertisements;
- (l) the preservation of plants;
- (m) the form of the register to be maintained under section 74; and
- (n) the development standards.

Effect on the Crown

78. This Act binds the Crown.

Repeals

79. The Town and Country Planning Act (Chapter 264), the Land Development (Control) Act 1966 and declarations and regulations made thereunder, the Building Act (Chapter 284) and proclamations and regulations made thereunder are hereby repealed.

Citation and date of operation

80. (1) This Act may be cited as the Physical Planning Act, 2001.

(2) This Act or parts thereof shall come into operation on such date or dates as may be prescribed by the Governor by notice published in the *Gazette*.

Speaker

Passed the House of Assembly this day of 2001.

Clerk of the House of Assembly

SCHEDULE 1

(Section 4(2))

CONSTITUTION AND PROCEDURES OF THE PHYSICAL PLANNING BOARD

Membership of the Board

1. (1) The Board shall consist of 7 members, namely—
 - (a) 5 *ex officio* members in the service of the Government of Anguilla, namely—
 - (i) the Permanent Secretary to the Minister responsible for physical planning,
 - (ii) the Director of Lands and Surveys,
 - (iii) the Chief Engineer of the Public Works Department;
 - (iv) the Director of Physical Planning, and
 - (v) the principal Environmental Health officer; and
 - (b) 2 persons not holding any public office who have knowledge and experience of matters relevant to physical planning, appointed by the Governor on the advice of the Executive Council.
- (2) The Governor shall designate 2 members to be Chairman and Deputy Chairman of the Board and, in case of the absence or inability of the Chairman, the Deputy Chairman shall act temporarily as Chairman.
- (3) A member appointed under subsection (1)(b) shall serve on the Board for a period not exceeding 2 years, but shall be eligible for re-appointment, provided that no member, save an *ex officio* member, shall hold office for a period of longer than 6 consecutive years.
- (4) The Governor, on the advice of the Executive Council, may at any time revoke the appointment of any member appointed under subsection (1)(b).
- (5) The names of all members of the Board as first constituted and every change of membership thereof shall be published in the *Gazette*.
- (6) The Director shall from time to time assign an officer of the Physical Planning Department to perform the functions of Secretary to the Board.
- (7) In the event of the temporary incapacity or the temporary absence from the country of any member, the Governor may appoint some other person to act as a temporary member for so long as the incapacity or absence continues.
- (8) If an official member of the Board is unable to attend any meeting of the Board due to absence from office, the officer acting for him shall attend the meeting of the Board.

Meetings of the Board

2. (1) The Board shall meet at least once in every month and at such other times as may be necessary for the transaction of business at such places and times and on such days as the Board may determine.
- (2) The Chairman shall convene a special meeting of the Board within 7 days of receipt of a requisition for that purpose, addressed to him in writing and signed by any 3 members of the Board, and on any other occasion when he is directed in writing by the Minister so to do.
- (3) The Chairman shall preside at meetings of the Board at which he is present.
- (4) At any meeting of the Board 4 members shall form a quorum, provided that where any member shall be disqualified by virtue of section 4 from taking part in any deliberation or decision at a meeting of the Board, that fact shall be disregarded for the purpose of forming a quorum.

(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.

Decision of the Board

3. The decision of the Board shall be by vote of the majority 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 original voting is equal.

Conflict of interest

4. (1) A member of the Board who is in any way, whether directly or indirectly, interested in any matter whatsoever with which the Board is concerned shall declare that interest at the first meeting of the Board at which he is present, after the relevant facts have come to his knowledge.

(2) A member shall not take part in any deliberation or decision of the Board with respect to any matter with which the Board is concerned in which he has, whether directly or indirectly, any interest.

(3) A disclosure made under subsection (1) shall be recorded in the minutes of the Board.

(4) Where, owing to the number of members who have declared an interest in an item of business at a meeting, the Board lacks a quorum to transact that item of business, that fact shall be recorded in the minutes and reported to the Minister.

(5) The Minister acting in his discretion may grant a dispensation, subject to such terms and conditions as he shall think fit to impose, to all or any of the members who have declared an interest in an item of business to which subsection (4) applies so as to allow that item to be disposed of at the next meeting of the Board following the meeting referred to in subsection (4).

Validity of Board's decision

5. (1) The validity of anything done under this Act shall not be affected solely by reason of—

- (a) the existence of any vacancy in the membership, or any defect in the constitution of the Board;
- (b) an omission or irregularity in respect of any meeting or any proceedings of the Board under section 4; or
- (c) the contravention by a member of section 4.

(2) No civil proceedings shall lie or be instituted against any member of the Board in respect of any act or omission occurring in good faith in pursuance or purported pursuance of any of the provisions of this Act, and in the event of such proceedings against the Board no member thereof shall be held to be personally liable.

Expenses of the Board

6. (1) The members of the Board may be remunerated in such manner and at such rates as may be decided by the Executive Council.

(2) The expenses of the Board shall be defrayed out of sums provided for the purpose in the annual estimates of revenue and expenditure for Anguilla as approved by the House of Assembly.

Definition

7. In this Schedule, "Chairman" includes a person appointed or elected, as the case may be, to act temporarily in place of the Chairman.

SCHEDULE 2

(Section 9)

**MATTERS FOR WHICH PROVISION MAY
BE MADE IN DEVELOPMENT PLANS****PART 1****ROADS**

1. Reservation of land for roads and establishment of public rights of way including public rights of way to 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 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 2**BUILDINGS 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 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, 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 3**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, meeting halls, play centres and recreation grounds in relation to the number and siting of houses.

PART 4**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 wildlife sanctuaries;
 - (c) for the protection of marine life; or
 - (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 of all or any particular forms of advertisement or other public notices, whether on the ground, or any building, or any temporary erection, whether on land or in water, or in the air.
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 situated 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 ponds, salt ponds, gullies, beaches, the foreshore or territorial waters.

PART 5

PUBLIC SERVICES

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

PART 6

TRANSPORT AND COMMUNICATIONS

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 7

MISCELLANEOUS

1. Providing for and regulating the making of agreements for the purpose of a development plan by the Minister with owners and other persons, and by such persons with one another.
2. Subdivision 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 5 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 subdivide as a condition of the grant of such permission; and

- (d) co-ordinating the subdivision 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; and
- (b) effecting such exchanges of land or cancellation of existing subdivision plans as may be necessary or convenient for the purposes aforesaid.

SCHEDULE 3

(Section 21)

**MATTERS FOR WHICH ENVIRONMENTAL IMPACT
ASSESSMENT MAY BE REQUIRED**

1. An airport, port or harbour, including a yacht marina
2. A power plant
3. A crude oil storage or refinery facility or a petroleum and natural gas storage and pipeline installation.
4. An incinerator, sanitary land fill operation, solid waste disposal site, sludge disposal site, toxic waste disposal site or other similar site.
5. A wastewater treatment, desalination or water purification plant.
6. An industrial estate development project.
7. An installation for the manufacture, storage or industrial use of cement, paints, chemical products or hazardous materials.
8. A drilling, quarrying, sand mining and other mining operation.
9. A operation involving land reclamation, dredging and filling of ponds.
10. A hotel or resort complex or golf course.
11. A shopping centre.
12. A residential apartment complex of more than 10 units.

SCHEDULE 4

(Section 65(1))

**CONSTITUTION AND PROCEDURES
OF THE APPEALS TRIBUNAL****Membership of the Appeals Tribunal**

1. (1) The Appeals Tribunal shall consist of 5 members appointed by the Governor in Council from amongst persons trained and experienced in—

- (a) physical planning;
- (b) architecture/ engineering;
- (c) land surveying;
- (d) environmental, coastal and marine matters;
- (e) law;
- (f) finance and commerce;
- (g) social services and community development.

(2) The Governor shall appoint a chairman from amongst the members of the Appeals Tribunal.

(3) A member of the Appeals Tribunal shall hold office for a period not exceeding 2 years, but such a member shall be eligible for reappointment.

(4) The Governor may at any time revoke the appointment of any member on the advice of the Executive Council.

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

(6) Any member of the Appeals Tribunal may resign his office at any time by notice in writing to the Governor in Council.

(7) The Director shall assign an officer of the Physical Planning Department to perform the duties of Secretary of the Appeals Tribunal. The Secretary shall keep a written record of all proceedings of the Appeals Tribunal which shall be confirmed by the chairman.

(8) In the event of temporary incapacity or temporary absence from the country of any member, the Governor may appoint some other person to act as a temporary member for so long as the incapacity or absence continues.

(9) If an *ex officio* member of the Appeals Tribunal so appointed under subsection (1) is unable to attend any meeting of the Appeals Tribunal due to absence from office, the officer acting for him shall attend the meeting of the Appeals Tribunal.

Meetings of Appeals Tribunal

2. (1) The Appeals Tribunal shall meet on such occasions as may be expedient for the hearing of appeals and at such places, times and on such days as the Appeals Tribunal may determine.

(2) The chairman shall preside at all meetings of the Appeals Tribunal.

(3) A quorum of the Appeals Tribunal shall consist of a majority of members, that is to say 3 members, which shall include the chairman.

(4) The decisions of the Appeals Tribunal shall be by a majority of votes of members present and voting and, in the event of equality of votes, the chairman shall have a casting vote in addition to his own original vote.

Declaration of interest

4. (1) It shall be the duty of a member of the Appeals Tribunal who is in any way directly or indirectly interested in a matter coming before the Appeals Tribunal 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 Tribunal on that matter.

(2) Where the Appeals Tribunal lacks a quorum in relation to an appeal owing to the number of members who have declared an interest in that appeal, the Governor in Council shall, for the purpose of that appeal, revoke the appointment of those members and appoint other persons in their stead.

Remuneration

5. For each sitting of the Appeals Tribunal the members, other than *ex officio* members, shall be paid such remuneration as may be prescribed by the Governor in Council, and such remuneration shall be a charge on the Consolidated Fund.

Validity of proceedings

6. The validity of any proceedings of the Appeals Tribunal shall not be affected by any vacancy among the members thereof or by any defect in the appointment of a member thereof.