

Supplement No. 10 published with Gazette No. 22 of 24th October, 2011.

DEVELOPMENT AND PLANNING LAW

(2011 Revision)

Law 28 of 1971 consolidated with Laws 13 of 1974, 2 of 1975, 16 of 1977, 24 of 1977, 9 of 1981, 7 of 1983, 25 of 1984, 1 of 1989, 8 of 1989, 3 of 1990, 20 of 1990 (part), 9 of 1991, 6 of 1993, 4 of 1995, 18 of 1996, 12 of 1997, 25 of 1997, 29 of 1997, 11 of 2001, 33 of 2001, 10 of 2002, 11 of 2002, 19 of 2002, 7 of 2003, 31 of 2003, 8 of 2004, 3 of 2005, 4 of 2005, 16 of 2006 and 30 of 2010 and as amendeded by the Cayman Islands (Constitution) (Amendment) Order 2003 (U.K.S.I. 2003 No. 1515).

Revised under the authority of the Law Revision Law (1999 Revision).

Originally enacted-

Law 28 of 1971-20th December, 1971
Law 13 of 1974-14th October, 1974
Law 2 of 1975-1st May, 1975
Law 16 of 1977-28th July, 1977
Law 24 of 1977-5th December, 1977
Law 9 of 1981-9th March, 1981
Law 7 of 1983-22nd February, 1983
Law 25 of 1984-13th December, 1984
Law 1 of 1989-22nd February, 1989
Law 8 of 1989-25th May, 1989
Law 3 of 1990-20th February, 1990
Law 20 of 1990-6th September, 1990
Law 9 of 1991-8th March, 1991
Law 6 of 1993-21st June, 1993
Law 4 of 1995-21st June, 1995
Law 18 of 1996-27th September, 1996
Law 12 of 1997-2nd May, 1997
Law 25 of 1997-15th December, 1997
Law 29 of 1997-23rd December, 1997
Law 11 of 2001-25th May, 2001
Law 33 of 2001-14th November, 2001
Law 10 of 2002-10th July, 2002
Law 11 of 2002-15th July, 2002
Law 19 of 2002-5th December, 2002
Law 7 of 2003-25th June, 2003
Law 31 of 2003-4th December, 2003

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Law 8 of 2004-18th March, 2004
Law 3 of 2005-11th February, 2005
Law 4 of 2005-11th February, 2005
Law 16 of 2006-9th June, 2006
Law 30 of 2010-12th July, 2010.

Originally made-

U.K. Order, 2003-12th June, 2003.

Consolidated and revised this 31st day of July, 2011.

Note (not forming part of the Law): This revision replaces the 2008 Revision which should now be discarded.

DEVELOPMENT AND PLANNING LAW

(2011 Revision)

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DEVELOPMENT AND PLANNING LAW

(2011 Revision)

1. This Law may be cited as the Development and Planning Law (2011 Revision). Short title

2. (1) In this Law- Definitions

“agriculture” includes horticulture, fruit growing, dairy farming, the breeding and keeping of livestock (including the farming of turtles in confinement), the use of land as grazing land, meadow land, market gardens and nursery grounds and “agricultural” has a corresponding meaning;

“ancillary building” means a garage or other building or structure on a lot or parcel subordinate to and not forming an integral part of the main or principal building but pertaining to the use of the main building;

“Appeals Tribunal” means the Appeals Tribunal established under section 47;

“Authority” means the Central Planning Authority established under section 3(1);

“Board” means the Development Control Board established under section 3(3);

“building” includes any structure or erection of a permanent or semi-permanent nature and any part of a building as so defined, but does not include plant or machinery comprised in a building;

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

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

“court” means a court of summary jurisdiction;

“days” means working days;

“detached house” means a dwelling unit on its own exclusive lot;

“development” has the meaning assigned to it by section 13(2) and “develop” has a corresponding meaning;

“development plan” has the meaning assigned to it by section 9, and includes the plan deemed to be the first development plan of the Islands under section 9(5) and any amendment to a development plan;

“Development Plan Tribunal” means a tribunal established under section 43;

- “Director” means the Director of Planning appointed under section 4;
- “duplex” means two dwelling units one above the other or side by side having a common wall and being on one lot;
- “engineering operations” includes the formation and laying out of means of access to highways;
- “erection”, in relation to buildings, includes extension, alteration and re-erection.
- Law 2 of 1969 “former Law” means the repealed Land Development (Interim Control) Law, 1969;
- “functions” includes powers and duties;
- “Governor” means the Governor in Cabinet;
- “highway authority” means the authority responsible for the maintenance of a road;
- “land” includes land covered by water and also includes incorporeal hereditaments of every tenure or description and any interest therein and also an undivided share in land;
- 2004 Revision “Land Register” means the Land Register compiled under Division 2 of Part II of the Registered Land Law (2004 Revision);
- “national disaster” includes hurricane, fire, flood, earthquake, outbreak of pestilence, outbreak of infectious disease or any other calamity whether similar to the foregoing or not;
- “operations” includes -
- (a) building operations;
 - (b) excavating land; and
 - (c) any other activity connected to the use of land;
- “outline planning permission” means permission for the erection of a building or for the use of land, which permission is granted subject to a condition that approval be given by the Authority at some later time to the site, design, density or external appearance of any such building or the means of access;
- “owner”, in relation to any building or land, means a person other than a mortgagee not in possession, who is for the time being entitled to dispose of the right of ownership of the building or land, whether in possession or reversion, and also includes a person holding or entitled to the rents and profits of the building or land under a lease or agreement the unexpired term whereof exceeds ten years and, without prejudice to the generality of this definition, in sections 13, 15, 48 and 49, “owner” includes each proprietor for the time being of a strata lot;
- “permission granted for a limited period only” has the meaning assigned to it by section 15(2);

“planned area development” means a master planned development approved by the Authority pursuant to regulations made under this Law;

“primary use” within a zone includes any use which is subsidiary to and compatible with the primary purpose of that zone;

“recovery period” means such period (as may be specified by the Governor in Cabinet by order) immediately following a national disaster;

“road” means a road as defined from time to time in the Roads Law (2005 Revision);

“special purpose development” means a development of land for a purpose which is unfamiliar or uncommon in the Islands including such a purpose as primary manufacturing;

“statutory undertakers” means persons authorised by any law to carry on any road transport, water transport, dock, harbour or pier undertakings or any undertaking for the supply of electricity, water, telephonic, telegraphic, sewerage or quarrying services and “statutory undertaking” has a corresponding meaning;

“strata lot” means a strata lot as defined in the Strata Titles Registration Law (2005 Revision);

“subdivision”, in relation to land, means the division of any land other than buildings held under one ownership whether the subdivision is by conveyance, transfer or partition, or for the purpose of sale, gift, lease or any other purpose and “subdivide” has a corresponding meaning;

“temporary development” means-

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

at any time during a recovery period, for the purpose of the restoration of the Islands following a national disaster;

“Tribunal” means the Tribunal established under section 46(1); and

“tree preservation order” has the meaning assigned to it by section 25(1).

(1A) For the purposes of this Law -

- (a) carrying out development without the grant of permission required in that behalf under Part III; or
- (b) failing to comply with any condition or limitation subject to which such permission has been granted,

constitutes a breach of planning control.

(2) Where, under this Law, the approval or sanction of the Legislative Assembly is required to any matter such approval shall have effect from the date on which the Legislative Assembly signifies approval or sanction thereto.

PART I-Central Administration

Establishment and
constitution of Central
Planning Authority

3. (1) For the purposes of this Law there is established a body of persons to be called the Central Planning Authority, exercising such functions throughout the Islands as are hereinafter assigned to it.

(2) The Authority shall consist of a Chairman and twelve other members (one of whom shall be a member of the Board) appointed by the Governor.

(3) A Development Control Board is established for the Islands of Cayman Brac and Little Cayman consisting of a Chairman and six other members who shall be appointed by the Governor.

(4) An executive secretary for each body shall be appointed by the Governor.

(5) Subject to this section, the constitution and procedure of the Authority and Board shall be in accordance with Schedule 1.

(6) Every member of the Authority or Board (not being a Government employee) is entitled to receive out of the Treasury the appropriate sum for attendance at any meeting of the Authority or Board payable quarterly upon the certificate of the Chairman of either body as to the number of attendances of each member.

Continuation of
Planning Department

3A. There shall continue to be established a department of Government called the Department of Planning which shall be maintained by such monies as shall be paid out of the general revenue of the Islands.

Appointment of Staff

4. (1) The Governor shall appoint a Director of Planning and such other officers as appear necessary for the proper exercise of the functions of the Authority; and the Director and officers shall be employed in the Department of Planning and shall be responsible for the administration of the Authority and the Board, including preparing their agendas and minutes, and communicating and implementing their decisions.

(2) It is the duty of the Director to attend all meetings of the Authority and to make to the Authority and the Board such recommendations as may appear to him to be necessary for the implementation of this Law.

5. (1) It is the duty of the Authority to secure consistency and continuity in the framing and execution of a comprehensive policy approved by the Executive Cabinet with respect to the use and development of the land in the Islands to which this Law applies in accordance with the development plan for the Islands prepared in accordance with Part II or otherwise in operation by reason thereof.

Duties of Authority

(2) All acts of the Authority shall be signified under the hand of the Director or such other officer as he may authorise.

(3) The Authority may, with the approval of the Governor, by written instrument, delegate any of its functions under this Law (other than this power of delegation) to-

- (a) the Director;
- (b) the Assistant Directors;
- (c) the Director and a member of the Authority; or
- (d) an Assistant Director and a member of the Authority.

(4) Where, under subsection (3)(c) or (d), a function of the Authority is delegated to -

- (a) the Director and a member of the Authority; or
- (b) an Assistant Director and a member of the Authority,

that function cannot be exercised except jointly by the Director or an Assistant Director (as the case may be) and that member.

(5) A delegation under subsection (3) is revocable at will and does not prevent the exercise by the Authority of any function so delegated.

6. (1) Where the Authority or Board receives an application for permission to carry out the developments specified in subsection (2), the Authority or Board, as the case may be, shall -

Applications to carry out major developments

- (a) consider the likely impact of the proposed development on the infrastructure of the Islands as well as on the educational, social, medical and other aspects of life in the Islands;
- (b) consider whether there are other issues of national importance which are relevant to the determination of the application for development and require evaluation;
- (c) consider whether there are technical or scientific aspects of the proposed development which are of so unfamiliar a character as to jeopardise a proper determination of the question unless there is a special inquiry for the purpose;
- (d) identify and investigate the considerations relevant to, or the technical or scientific aspects of, the proposed development

which, in its opinion, are relevant to the question whether the application should be approved; and

(e) assess the importance to be attached to those considerations or aspects.

(2) The developments referred to in subsection (1) are-

- (a) apartments with twenty-one or more units;
- (b) hotels with twenty-one or more units;
- (c) commercial developments which exceed twenty thousand square feet;
- (d) subdivision of land into twenty-one or more lots;
- (da) planned area developments;
- (e) industrial developments which exceed ten thousand square feet; and
- (f) special purpose developments.

(3) The Authority or Board, as the case may be, may give an applicant for permission to carry out the developments specified in subsection (2) an opportunity to appear before the Authority or Board and to be heard by five or more members of the Authority or three or more members of the Board.

(4) The question of whether the development proposed in the application should instead be carried out at an alternative site shall also be considered by the Authority or Board, as the case may be.

(5) The Authority or Board, as the case may be, may arrange for the carrying out of research of any kind appearing to it to be relevant to an application, received by it, for permission to carry out the developments specified in subsection (2).

(6) The Authority or Board, as the case may be, may hold an inquiry, if it thinks it necessary, for the proper discharge of its powers under this section

Cooperation with Government departments

7. The Authority or Board, as the case may be, shall, to the greatest possible extent consistent with the performance of its duties under this Law, consult with departments and agencies of the Government having duties or having aims or objects related to those of the Authority or Board.

Notification of decisions relating to major developments

8. The Authority or Board, as the case may be, shall notify the Trade and Business Licensing Board and the Immigration Board of its decision, in respect of an application for permission to carry out the developments specified in section 6(2), within five working days of the date such decision is made.

Immunity

8A. The Authority, the Board, the Department of Planning, the Director or an employee of the Department of Planning shall not be liable in damages for

anything done or omitted in the discharge or purported discharge of their respective duties or functions under this Law unless it is shown that the act or omission was in bad faith.

PART II-Development Plans

9. (1) A development plan includes such maps and descriptive matter in the form of a planning statement as may be necessary to illustrate its proposals with such degree of particularity as may be appropriate to different parts of the Islands; and a development plan, may in particular-

Preparation of
development plans

- (a) define the sites of proposed roads, public and other buildings and works, airfields, parks, pleasure grounds, nature reserves and other open spaces;
- (b) allocate areas of land for use for agricultural, residential, industrial or other purposes of any use or class specified in the plan; and
- (c) designate, as land subject to acquisition by the Authority-
 - (i) land allocated by the plan for purposes of any of their functions or the functions of a statutory undertaker or highway authority; and
 - (ii) other land that, in the opinion of the Authority, ought to be subject to acquisition by the Authority for the purpose of securing its use in the manner proposed by the plan.

(2) A development plan shall not designate any land as land subject to acquisition by the Authority if it appears to it that the acquisition is not likely to take place within five years from the date on which the plan is approved.

(3) Where any land is designated by a development plan as subject to acquisition by the Authority, then if at the expiration of one year 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 Authority, any owner of an interest in the land may serve on the Authority a notice requiring the interest of the owner in the land to be so acquired and if within six months after the service of that notice, or such longer period as may be agreed between the Authority and the owner, the interest of the owner has not been so acquired, the development plan shall have effect, after the expiration of the said six months, as if the land in which the said interest subsists was not designated as subject to acquisition by the Authority, but subject to such alternate restrictions as to user as shall be specified in the development plan.

(4) Without prejudice to subsection (1), a development plan may make provision for any of the matters set out in Schedule 2.

(5) Any other provision of this Law to the contrary notwithstanding, the paper entitled the Planning Statement for the Cayman Islands, 1977 together with its appendices and accompanying map approved by a resolution of the Legislative Assembly on the 28th day of July, 1977 is deemed to be the first development plan of the Islands and to have been prepared and approved in accordance and after full and proper compliance with this Law.

Amendment of
development plans

10. (1) At least once in every five years after the date on which a development plan for any area is approved by the Legislative Assembly the Authority shall carry out a fresh survey of that area, and submit to the Legislative Assembly a report of the survey, together with proposals for any alterations or additions to the plan that appear to them to be required having regard thereto.

(2) Notwithstanding subsection (1), the Authority-

- (a) shall, if at any time so required by the Governor, or by a resolution of the Legislative Assembly; or
- (b) may, whenever it appears expedient,

submit to the Legislative Assembly proposals for alterations or additions to any development plan.

Approval of
development plans

11. (1) The Authority shall, in the course of preparing a development plan relating to any land, or proposals for alterations or additions to any such plan, consult with the Board and any other public authority concerned with the development contemplated in the area concerned and may consult with such other persons or bodies as they think fit, and the Authority shall, before submitting any such plan or proposals for approval by the Legislative Assembly, give to the Board and to any public authority as aforesaid and to any such persons or bodies as aforesaid an opportunity to make objections or representations with regard thereto.

(2) Notice shall be published, in a public newspaper circulating in the Islands in two issues in each of two consecutive weeks, that the Authority has prepared in draft any such plan, and of the place or places in each district where copies of such plan or proposals may be inspected by the public.

- (3) (a) If any objection or representation with regard to any such plan or proposals is made in writing to the Authority within two months after the publication of the notice referred to in subsection (2), the Governor shall refer the matter to the Tribunal or a Development Plan Tribunal for an enquiry into all such objections or representations; and the Authority shall, before submitting any

such plan or proposals for the approval of the Legislative Assembly, take into consideration the objections or representations together with the report thereon of the Tribunal or a Development Plan Tribunal, as the case may be, and shall include such report with the plan or proposals submitted to the Legislative Assembly.

- (b) Where the Board objects to any such draft plan or proposals insofar as they relate to land within the limits of Cayman Brac or Little Cayman, the Board may include in its representations to the persons holding such enquiry alternative draft plans or proposals in relation to such land and, in that event, such alternative draft plans or proposals shall be included in the report of the Authority submitted to the Legislative Assembly unless modifications in the development plan submitted by the Authority to the Legislative Assembly take account of such alternative draft plans or proposals to the satisfaction of the Board.

(4) If, as a result of any objection or representation considered, or public inquiry held, in connection with a development plan or proposals for amendment of such a plan, the Authority is of the opinion that the Board or any other authority or person ought to be consulted before it decides to make the plan either with or without modifications, or to amend the plan, as the case may be the Authority shall consult that authority or person, but unless otherwise directed by the Governor, they shall not be obliged to consult any other authority or person, or to afford any opportunity for further objections or representations or to cause any further public inquiry to be held.

12. A development plan and any amendment thereof, as approved by the Legislative Assembly, shall be deposited with the Governor.

Deposit of development plans

PART III-Control of Development of Land

13. (1) Subject to this Law or any regulations made under this Law, permission shall be required under this Part for any development of land that is carried out after the 17th day of January, 1972. Except where otherwise provided for by this Law, permission shall not be given which would result in a development at variance with a development plan and in particular in the case of development in Cayman Brac or Little Cayman at variance with the guidelines therefor contained in any such plan.

Provisions for development

(2) *Repealed by section 7 of Law 30 of 2010.*

(3) In this Law-

“development” means the carrying out of building, engineering or other operations in, on, over or under any land, the making of any material change in the use of any building or other land, or the subdivision of any land, except that the following types of developments shall not require planning permission but shall be subject to all other provisions of the Law and any regulations made under the Law, including the Building Code Regulations, namely -

- (a) the carrying out of works for the maintenance, improvement or other alteration of any detached house if the works -
 - (i) affect only the interior of the house or do not materially affect the external appearance of the house; and
 - (ii) do not constitute or contribute to a material change in the use of the house;
- (aa) the carrying out of works for the maintenance, improvement or other alteration of any building (other than a detached house) if the works -
 - (i) affect only the interior of the building or do not materially affect the external appearance of the building;
 - (ii) do not constitute or contribute to a material change in the use of the building; and
 - (iii) do not contravene any other Law, regulation or code;
- (b) the carrying out by a highway authority of any works required for the maintenance or improvement or widening of a road;
- (c) the carrying out, with the approval of the Chief Engineer by any authority or statutory undertakers of any works for the purpose of inspecting, repairing or renewing any sewers, mains, cables or other apparatus, including the breaking open of any street or other land for that purpose;
- (d) the use of any land for the purpose of agriculture (except living accommodation, grazing, dairy farming, the breeding or keeping of livestock, or the farming of turtles in confinement);
- (e) the erection or construction of gates, fences, walls or other means of enclosure not being with any setback adjacent to the sea, not exceeding three feet six inches in height and not constructed of sheet metal;
- (f) the enlargement, improvement or other alteration of a dwelling-house provided that-
 - (i) the square footage of the enlargement does not exceed ten per cent of the square footage of the ground floor or the house;
 - (ii) the enlargement is single storey;
 - (iii) the regulations governing the setback of buildings and coverage of site are upheld;
 - (iv) the enlargement is an integral part of the existing dwelling-house; and

- (v) a notice of intention to construct under this section is forwarded to the Authority; or
- (g) the display of advertisements or signs except those specified by the Authority.

(4) The use for the display of advertisements on any external part of a building that is not normally used for that purpose shall be treated for the purposes of this section as involving a material change in the use of that part of the building.

(5) Approval will be given to the subdivision of land into six lots or less subject to compliance with zoning, access and other requirements.

(6) Subject to any regulations made under this Law with regard to planned area developments, permission to develop land, the primary purpose of which is residential, for commercial, agricultural, religious, social or educational purposes (including recreational facilities and public and civic buildings), may be given by the Authority if it is satisfied that-

- (a) the applicant has published adequate notice of his application for such permission in two consecutive issues of a public newspaper circulating in the Islands; and
- (b) no objection which the Authority regards as raising grounds for the refusal of such permission is received by it, from an owner, within twenty-one days of the publication of the second of such issues.

(7) Subject to subsection (6) and to any regulations made under this Law with regard to planned area developments, permission to develop land, the primary purpose of which is for residential use, for any other purpose than such use shall not be granted unless the Authority is satisfied that -

- (a) the applicant has published adequate notice of his application for such permission in four consecutive issues of a public newspaper circulating in the Islands; and
- (b) consent to the granting of such approval has been given by a majority of all owners of full legal capacity who -
 - (i) for the time being reside within a radius of one thousand feet of the boundaries of the land to which the application relates; or
 - (ii) reside elsewhere and own any building or land (including a strata lot) within a radius of one thousand feet of the boundaries of the land to which the application relates,

but where a development involves any operation which by itself would not conform to the primary use of residential land, that operation shall be deemed to

not change the primary use of that land if the development to which such operation relates conforms to such primary use.

Functions of the Board

14. (1) There is hereby conferred exclusively upon the Board in relation only to Cayman Brac and Little Cayman the functions and powers (which but for this section would be exercisable or enjoyable by the Authority) provided by sections 15 (save subsections (5) and (6)), 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 39, and 42.

(2) In the absence of express provision to the contrary, nothing in subsection (1) shall serve, by implication or otherwise, to confer upon the Board any other of the Authority's functions or powers under this Law.

Application for planning permission

15. (1) Subject to this section and section 5(1), where application is made to the Authority for outline planning or permission to develop land or permission for a planned area development, the Authority may grant permission either unconditionally or subject to such conditions as it thinks fit, or may refuse permission.

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

- (a) for regulating the development or use of any land under the control of the applicant (being land contiguous to the land that is the subject of the application) and for requiring the carrying out of works on any such land, so far as appears to the Authority to be expedient for the purposes of or in connection with the development authorised by the permission; and
- (b) for requiring the removal of any building or works authorised by the permission, or the discontinuance of any use of land so authorised, at the expiration of a specific period, and the carrying out of any works required for the reinstatement of land at the expiration of that period,

and permission granted subject to any such condition as is mentioned by paragraph (b) is, in this Law, referred to as permission granted for a limited period only.

(3) Subject to any specific provision made therein by the Authority, permission granted by the Authority remains effective for five years from the date of its promulgation but where permission is granted for a planned area development or where any part of the approved development is commenced within such time as provided or imposed thereunder, such approval shall vest in perpetuity and enure for the benefit of the land in accordance with section 16(4), unless revoked or modified in accordance with section 17.

(4) Notice of an application for planning permission having been made to the Authority (other than an application for permission having relation to a detached house, semi-detached house, duplex or any temporary development) shall be served in accordance with any regulations made under this Law, and the Authority shall not consider any application in the absence of evidence of service or publication, as the case may be, of such notice and unless twenty-one days have elapsed since the service or publication, as the case may be, of the last of such required notice.

(5) Subject to section 48, the decision of the Authority on any application made to them under this section shall be final.

(6) Subject to section 49, the decision of the Board on any application to it under this section shall be final.

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

Supplementary provisions re grants of planning permission

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

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

(4) Where permission to develop land is granted under this Part, then, except as may be otherwise provided by the permission, the grant of permission shall enure for the benefit of the land and of all persons for the time being interested therein, but without prejudice to this Part with respect to the revocation and modification of permission granted thereunder.

(5) Where permission to develop land is granted under this Part for a limited period only, nothing in this Part shall be construed as requiring permission to be obtained thereunder for the resumption, at the expiration of that period, of the use of the land for the purpose for which it was normally used before the permission was granted.

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

Revocation and
modification of planning
permission

17. (1) Subject to this section, if it appears to the Authority that it is expedient, having regard to the development plan and to any other material considerations, that any permission to develop land on an application made in that behalf under this Part should be revoked or modified, it may, by order, revoke or modify the permission to such an extent as appears to it to be expedient as aforesaid.

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

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

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

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

(4) No compensation shall be payable under subsection (3) in respect of loss or damage consisting of the depreciation in value of any interest in the land by virtue of the revocation or modification.

(5) For the purposes of this section, any expenditure incurred in the preparation of plans for the purposes of any work or upon other matters preparatory thereto shall be deemed to be included in the expenditure incurred in carrying out that work, but except as aforesaid no compensation shall be paid under this section in respect of any work carried out before the grant of the permission that is revoked or modified, or by reason of any other loss or damage (other than loss or damage by way of depreciation in value of an interest in land) arising out of anything done before the grant of that permission.

(6) Where the permission that is revoked or modified by an order under this section is permission for which compensation would be payable under Part IV in the circumstances therein mentioned, sections 31, 34 and 35 shall apply as if for references in section 31 to the refusal of the permission or the imposition of conditions on the grant thereof there were substituted references to the revocation of permission or the modification thereof by the imposition of conditions and section 31(1) shall have effect as if for the words “if the permission had been granted or had been granted unconditionally” there were substituted the words “if the permission had not been revoked or had not been modified”.

(7) Where by virtue of this section, compensation is payable in respect of expenditure incurred in carrying out any work on land, then if the Authority purchases any interest in that land, or a claim for compensation is made in respect of any such interest under section 31, any compensation payable in respect of that interest, or as the case may be, any compensation payable in respect of the interest under section 31 shall be reduced by an amount equal to the value of the works in respect of which compensation is payable under this section.

18. (1) If it appears to the Authority that any development of land has been carried out after the appointed day without the grant of permission required in that behalf under this Part, or that any conditions subject to which such permission was granted in respect of any development have not been complied with, then the Authority may, within three years of such development being carried out, or in the case of non-compliance with a condition, within three years after the date of the alleged failure to comply with it, if they consider it expedient so to do having regard to the provisions of the development plan and to any other material considerations, serve on the owner and occupier of the land a notice under this section.

Enforcement of planning control

(2) Where a prospective purchaser of any land serves notice on the Authority that-

- (a) he intends purchasing land described in the notice; and
- (b) he is unaware of any development having been carried out on that land without the grant of permission in that behalf,

then, unless the Authority, within thirty-eight days of the receipt of such notice notifies such prospective purchaser of any development which has been carried out on that land without permission granted in that behalf, then all development thereon at the time of the receipt of such notice by the Authority shall, for the purposes of any enforcement notice thereafter issued, be deemed to have been permitted by the Authority.

(3) Any notice served under subsection (1) (in this Law called an “enforcement notice”) shall specify the development that is alleged to have been

carried out without the grant of such permission as aforesaid or, as the case may be, the matters in respect of which it is alleged that any such conditions as aforesaid have not been complied with, and may require the taking of such steps as may be specified for restoring the land to its condition before the development took place, or for securing compliance with the conditions, as the case may be and in particular any such notice may, for the purpose aforesaid, require the demolition or alteration of any buildings or works, the discontinuance of any use of the land or the carrying out on land of any building or other operations.

2004 Revision

(4) An enforcement notice requiring the removal, or discontinuance of the display, of an advertisement or sign shall have effect in respect of the whole of the parcel (as defined in the Registered Land Law (2004 Revision)) on which the advertisement or sign is displayed.

(5) Except as otherwise provided in this section, an enforcement notice shall take effect at the expiration of such period after the service thereof, as may be specified therein.

(6) When, within the period mentioned in subsection (5), an application is made to the Authority under this Part for permission-

- (a) for the retention on the land of any buildings or works to which the enforcement notice relates; or
- (b) for the continuance of any use of the land to which the enforcement notice relates,

the operation of the enforcement notice shall be suspended pending the final determination of the application, and if the permission applied for is granted on that application, the enforcement notice shall not take effect.

(7) When within the period mentioned in subsection (5), an appeal is made to the court under section 19 by a person on whom the enforcement notice was served, the operation of the enforcement notice shall be suspended pending the final determination or withdrawal of the appeal.

(8) After the expiry of a period of five days from the date of service of an enforcement notice requiring the removal, or discontinuance of the display, of an advertisement or sign, the Authority, or a person authorised by the Authority, may remove the advertisement or sign and dispose of it fifteen days after the removal.

Appeal against
enforcement notice

19. (1) A person having an interest in the land to which an enforcement notice relates may, at any time before the date specified in the notice as the date on which it is to take effect, appeal to a court against the notice, whether or not a copy of it has been served on him.

(2) An appeal may be brought on the grounds that-

- (a) the matters alleged in the enforcement notice do not constitute a breach of planning control;
- (b) the breach of planning control alleged in the enforcement notice has not taken place;
- (c) the appellant, being a prospective purchaser of the land to which the enforcement notice relates, had served notice on the Authority in accordance with section 18(2) and that the Authority has failed to notify the appellant that the development to which the enforcement notice relates had been carried out without permission;
- (d) the breach of planning control alleged by the enforcement notice occurred on a date earlier than three years before the date on which the notice was served;
- (e) the steps required by the enforcement notice to be taken exceed what is necessary to remedy any breach of planning control or to achieve a purpose specified in section 18(3); or
- (f) the period specified in the enforcement notice as the period within which any step is to be taken falls short of what should reasonably be allowed.

(3) On any appeal under this section, the court-

- (a) if satisfied that grounds (a), (b), (c) or (d) of subsection (2) have been proven, shall quash the enforcement notice;
- (b) if satisfied that a variation of the enforcement notice on grounds (e) or (f) or both of subsection (2) would be appropriate, may vary the notice accordingly; or
- (c) in any other case, shall dismiss the appeal,

and on any such appeal may make such order as to costs as the court thinks fit.

(4) Where the enforcement notice is varied or the appeal dismissed, the notice, unless the court otherwise directs, shall take effect on the date of determination of the appeal.

(5) The decision of the court under this section shall be final and binding on all parties concerned.

20. (1) If, within the period specified in a enforcement notice, or within such extended period as the Authority may allow, any steps required by the enforcement notice to be taken (other than the discontinuance of any use of land) have not been taken, the Authority may enter on the land and take those steps and may recover as a simple contract debt in any court of competent jurisdiction from the person who is then the owner of the land any expenses reasonably incurred by the Authority in that behalf; and if that person, having been entitled to appeal to the court under section 19, has failed to make such an appeal, he shall not be

Supplementary provisions as to enforcement

entitled in proceedings under this subsection to dispute the validity of the action taken by the Authority upon any ground that could have been raised by such an appeal.

(2) Any expenses incurred by the owner or occupier of any land for the purposes of complying with an enforcement notice served under section 18, in respect of any development and any sums paid by the owner of any land under subsection (1) in respect of the expenses of the Authority in taking steps required to be taken by such an enforcement notice, shall be deemed to be incurred or paid for the use and at the request of the person by whom the development was carried out.

(3) Where, by virtue of an enforcement notice, any use of land is required to be discontinued, or any conditions are required to be complied with in respect of any use of land or in respect of the carrying out of operations thereon, then a person who, without the grant of permission in that behalf under this Part, uses the land or causes or permits to be carried out those operations, in contravention of the enforcement notice, commits an offence and is liable on summary conviction to a fine of five thousand dollars and, in the case of a continuing offence, to a further fine of two hundred dollars for every day after the first day during which the use is so continued.

(4) Nothing in this Part shall be construed as requiring permission to be obtained thereunder for the use of any land for the purpose for which it could lawfully have been used under this Part if the development in respect of which an enforcement notice served under section 18 had not been carried out.

Penalties for failure to
comply with certain
enforcement notices

21. (1) Subject to this section, where an enforcement notice has been served under section 18 on the person who was, when the notice was served on him, the owner or occupier of the land to which the enforcement notice relates and within the period specified in the enforcement notice, or within such extended period as the Authority may allow, any steps required by the enforcement notice to be taken (other than the discontinuance of any use of land) have not been taken, that person commits an offence and is liable on summary conviction to a fine of five thousand dollars and, in the case of a continuing offence, to a further fine of one thousand dollars for every day after the first day during which the requirements of the enforcement notice (other than the discontinuance of any use of land) remain unfulfilled.

(2) If a person against whom proceedings are brought under this section has at some time before the end of the period specified in the enforcement notice for compliance with the notice (or of such extended period as the Authority may allow for compliance with the notice) ceased to be the owner or occupier of the land, he shall, upon information duly laid by him and on giving to the prosecution

not less than three days' clear notice of his intention, be entitled to have the person who then became the owner or occupier of the land joined in the proceedings.

(3) If, after it has been proved that any steps required by the enforcement notice have not been taken as aforesaid, the original defendant proves that the failure to take the steps was attributable in whole or in part to the default of the person joined in the proceedings as aforesaid, that person may be convicted of the offence and if the original defendant further proves that he took all reasonable steps to secure compliance with the enforcement notice, he shall be acquitted of the offence.

22. (1) Compliance with an enforcement notice may call for -

Continuing operation of enforcement notices

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

(2) Without restricting the generality of subsection (1), where any development is carried out on land by way of reinstating or restoring buildings or works that have been demolished or altered in compliance with an enforcement notice, the enforcement notice shall, notwithstanding that its terms are not apt for the purpose be deemed to apply in relation to the buildings or works as reinstated or restored as it applied in relation to the buildings or works before they were demolished or altered, and section 20(1) and (2) shall apply accordingly.

(3) Without affecting the operation of section 21, a person who carries out any development on land by way of reinstating or restoring buildings or works that have been demolished or altered in compliance with an enforcement notice commits an offence and is liable on summary conviction to a fine of five thousand dollars.

23. (1) Where in respect of any land the Authority-

Stop notice

- (a) has served a copy of an enforcement notice requiring a breach of planning control to be remedied; but
- (b) considers it expedient to prevent before the expiry of the period allowed for compliance with the enforcement notice the carrying on of any activity which is or is included in a matter alleged by the notice to constitute the breach, then, subject to the following provisions of this section, the Authority may, at any time before the notice takes effect, serve a notice (in this Law referred to as a "stop notice") referring to and having annexed to it a copy of the enforcement notice and prohibiting the carrying out of that activity on the land, or on any part of the land specified in the stop notice.

- (2) A stop notice shall not prohibit-
 - (a) the use of any building as a dwelling-house; or
 - (b) the taking of any steps specified in the enforcement notice as required to be taken in order to remedy the breach of planning control,

and where an activity has been carried out (whether continuously or otherwise) without planning permission on land for a period which commenced more than twelve months before the date on which a stop notice is served, the stop notice shall not prohibit the carrying out of that activity on that land unless it is, or is incidental to, building engineering or other operations.

- (3) A stop notice shall cease to have effect when-
 - (a) the enforcement notice is withdrawn or quashed;
 - (b) the period allowed for compliance with the enforcement notice expires; or
 - (c) notice of the withdrawal of the stop notice is first served under subsection (5),

and a stop notice shall also cease to have effect if or to the extent that the activities prohibited by it cease, on a variation of the enforcement notice, to be included in the matters alleged by the enforcement notice to constitute a breach of planning control.

(4) A stop notice may be served by the Authority on any person who appears to the Authority to have an interest in the land or to be engaged in any activity prohibited by the notice; and where a stop notice has been served in respect of any land, the Authority may display on the land a notice (in this section referred to as a “site notice”) stating that a stop notice has been served and that any person contravening it may be prosecuted for an offence under this section, giving the date when the stop notice takes effect and indicating its requirements.

(5) The Authority may, at any time, withdraw a stop notice (without prejudice to its power to serve another) by serving a notice to that effect on the persons served with the stop notice and, if a site notice was displayed in respect of the stop notice, by displaying a notice of the withdrawal in place of the site notice.

- (6) Subject to subsection (7), a person who contravenes, causes or permits the contravention of a stop notice-
 - (a) after a site notice has been displayed; or
 - (b) if a site notice has not been displayed, more than two days after the stop notice has been served on him,

commits an offence and is liable on summary conviction to a fine of five thousand dollars, and if the offence is continued after conviction, commits a further offence

and is liable on summary conviction to a fine of one thousand dollars for each day on which the offence is continued.

(7) In proceedings for an offence under this section it shall be a defence for the accused to prove that the stop notice was not served on him and that he did not know, and could not reasonably have been expected to know, of its existence.

(8) A stop notice shall not be invalid by reason that a copy of the enforcement notice to which it relates was not served as required by section 18(1), if it is shown that the Authority took all such steps as were reasonably practicable to effect proper service.

(9) Any reference in this section to the period allowed for compliance with an enforcement notice shall be construed in accordance with section 20(1) or 21(1).

24. (1) A person who, when a stop notice under section 23 is first served, has an interest in or occupies the land to which the stop notice relates shall, in any of the circumstances mentioned in subsection (2), be entitled to be compensated by the Authority in respect of any loss or damage directly attributable to the prohibition contained in the notice or, in a case within paragraph (b) thereof, so much of that prohibition as ceases to have effect.

Compensation for loss
due to stop notice

(2) A person shall be entitled to compensation under subsection (1) in respect of a prohibition contained in a stop notice if-

- (a) the enforcement notice is quashed by a court;
- (b) the enforcement notice is withdrawn by the Authority otherwise than in consequence of the grant by the Authority of planning permission for the development to which the notice relates or for its retention or continuance without compliance with a condition subject to which a previous planning permission was granted; or
- (c) the stop notice is withdrawn.

(3) A claim for compensation under this section shall be made to the Authority within the time and in the manner prescribed by regulations made under this Law.

(4) The loss or damage in respect of which compensation is payable under this section in respect of a prohibition may include a sum payable in respect of a breach of contract caused by the taking of action necessary to comply with the prohibition.

25. (1) If it appears to the Authority that it is expedient in the interests of amenity to make provision for the preservation of any tree, trees or woodlands in any area, it may, for that purpose, make an order (in this Law referred to as a tree

Preservation of trees and
woodlands

preservation order) with respect to any such tree, trees, groups of trees or woodlands as may be specified in the order; and, in particular, provision may be made by any such order-

- (a) for prohibiting (subject to any exemptions for which provision may be made by the order) the cutting down, topping or wilful destruction of trees except with the consent of the Authority which may be given subject to conditions;
- (b) for securing the replanting, in such a manner as may be prescribed by or under the order, of any part of a woodland area that is felled in the course of forestry operations permitted by or under the order;
- (c) for applying, in relation to any consent under the order, and to applications therefor, any of the provisions of this Part relating to permission to develop land, and to applications for any such permission, subject to such adaptations and modifications as may be specified in the order; and
- (d) for the payment by the Authority, subject to such exceptions and conditions as may be specified in the order, of compensation in respect of damage or expenditure caused or incurred in consequence of the refusal of any consent required under the order, or the grant of any such consent subject to conditions.

(2) Provision may be made by regulations with respect to the form of tree preservation orders and the procedure to be followed in connection with the making and approval of such orders, and such regulations shall, in particular, make provision for securing-

- (a) that notice shall be given to the owners and occupiers of land affected by any such order;
- (b) that objections and representations with respect to the proposed order duly made in accordance with the regulations shall be considered before the order is made by the Authority; and
- (c) that copies of the order when it comes into operation shall be served on the owners and occupiers of the land to which it relates.

(3) Notwithstanding subsection (2), where it appears to the Authority that any tree preservation order should take effect immediately, they may make the order provisionally without complying with the requirements of any regulations with respect to the consideration of objections and representations, but any order so made shall cease to have effect upon the expiration of two months from the date on which it is so made unless within that period it has again been made, with or without modifications, after compliance with those requirements.

(4) Without limiting the other exemptions for which provision may be made by a tree preservation order, no such order shall apply to the cutting down,

topping or lopping of trees in compliance with any obligation imposed by or under any law or so far as may be necessary for the prevention or abatement of a nuisance.

(5) A person who contravenes a tree preservation order, commits an offence and is liable on summary conviction to a fine of four hundred dollars and in the case of a continuing offence, to a further fine of twenty dollars for every day after the first day during which the contravention is so continued.

26. Storm belts as indicated on a development plan shall not be the subject of development or clearance other than by persons authorised in that behalf by the Authority and to the extent and in the manner, if any, directed by them. Storm belts

27. *Repealed by section 9 of Law 30 of 2010.* *Repealed*

28. (1) Without prejudice to this or any other law, a person who, without the express permission of the Authority, given in writing takes or removes any sand, gravel, pebbles, stone, coral or other filling from any area between mean high water mark and five hundred feet inland thereof, or from any land covered by water, commits an offence and is liable on summary conviction to a fine of five hundred dollars and to imprisonment for three months in respect of each separate taking or removal, and a person who aids or abets any person in the commission of such offence shall, on summary conviction, be punishable in the same manner as the principal offender: Taking ballast from shoreline an offence

Provided that nothing in this subsection shall apply to the taking or removal from domestic purposes by any person of any of the substances hereinbefore referred to in a quantity not exceeding one cubic yard in any one month.

(2) A person who, in any area or land referred to in subsection (1), is found by any constable in possession or control of sand, gravel, pebbles, stone, coral or other filling loaded or being loaded in or being unloaded from any vehicle shall be deemed to have contravened subsection (1) until he proves the contrary.

29. For the avoidance of doubt it is hereby declared that this Part shall apply to the development of land in Cayman Brac and Little Cayman irrespective of whether any of the functions of the Authority under this Part have been delegated to the Board. Application of Part III to development in Cayman Brac and Little Cayman

PART IIIA-Land Adversely Affecting Amenity of Neighbourhood

29A.(1) If it appears to the Authority that the amenity of an area is adversely affected or seriously injured by reason of the ruinous, dilapidated or other condition of any building, or by the condition of land due to the deposit of refuse, Power to require proper maintenance of land

spoil or derelict vehicles or the occupation of land or a road for purposes of the repair of vehicles, it may serve a notice under this section on -

- (a) the owner or occupier of the land or building; or
- (b) the person responsible for causing the condition of the land or building.

(2) The notice shall require such steps for remedying the condition of the land or building as may be specified in the notice to be taken within such period as may be so specified.

(3) Subject to the following provisions of this Part, the notice shall take effect at the end of such period as may be specified in the notice.

Penalty for non-compliance with notice under section 29A

29B. (1) The provisions of this section shall have effect where a notice has been served under section 29A.

(2) If any owner or occupier of the land or building on whom the notice was served fails to take steps required by the notice within the period specified in it for compliance with it, he commits an offence and is liable on summary conviction to a fine of -

- (a) five thousand dollars per day from the date that the notice takes effect in accordance with section 29A(3) in relation to land or a building in a zone other than a Hotel/Tourism zone as defined in the Development and Planning Regulations (2011 Revision); or
- (b) twenty-five thousand dollars per day from the date that the notice takes effect in accordance with section 29A(3) in relation to land or a building in a Hotel/Tourism zone as so defined,

2011 Revision

and, in default of the payment of the fine, to imprisonment for a term of six months.

(3) Where proceedings have been brought under subsection (2) against a person as the owner of the land or building and he has, at some time before the end of the compliance period, ceased to be the owner of the land or building, if he-

- (a) duly lays information to that effect; and
- (b) gives the prosecution not less than three clear days' notice of his intention,

he shall be entitled to have the person who then became the owner of the land or building brought before the court in the proceedings.

(4) Where proceedings have been brought under subsection (2) against a person as the occupier of the land or building and he has, at some time before the

end of the compliance period, ceased to be the occupier of the land or building, if he -

- (a) duly lays information to that effect; and
- (b) gives the prosecution not less than three clear days' notice of his intention,

he shall be entitled to have brought before the court in the proceedings the person who then became the occupier of the land or building or, if nobody then became the occupier, the person who is the owner at the date of the notice.

(5) Where in such proceedings -

- (a) it has been proved that any steps required by the notice under section 29A have not been taken within the compliance period; and
- (b) the original defendant proves that the failure to take those steps was attributable, in whole or in part, to the default of a person specified in the notice under subsection (3) or (4),

then -

- (i) that person may be convicted of the offence; and
- (ii) if the original defendant also proves that he took all reasonable steps to ensure compliance with the notice, he shall be acquitted of the offence.

(6) If, after a person has been convicted under the previous provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the notice, he commits a further offence and is liable on summary conviction to a fine of -

- (a) one hundred dollars for each day following his first conviction on which any of the requirements of the notice remain unfulfilled, in relation to land or a building in a zone other than a Hotel/Tourism zone or a Commercial zone as defined in the Development and Planning Regulations (2011 Revision); or
- (b) two thousand for each day following his first conviction on which any of the requirements of the notice remains unfulfilled in relation to land or a building in a Hotel/Tourism zone or a Commercial zone as so defined,

2011 Revision

and, in default of the payment of the fine, to imprisonment for a term of three months.

(7) Any reference in this section to the compliance period, in relation to a notice, is a reference to the period specified in the notice for compliance with it.

Appeal to summary court against notice under section 29A

29C. (1) A person on whom a notice under section 29A is served, or any other person having an interest in the land to which the notice relates, may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal against the notice on any of the following grounds -

- (a) that the condition of the land or building to which the notice relates does not adversely affect the amenity of the area;
- (b) that the condition of the land or building to which the notice relates is attributable to, and is such as results in the ordinary course of events from, the carrying on of operations or a use of land which is not in contravention of Part III;
- (c) that the requirements of the notice exceed what is necessary for preventing the condition of the land or building from adversely affecting the amenity of the area; and
- (d) that the period specified in the notice as the period within which any steps required by the notice are to be taken falls short of what should reasonably be allowed.

(2) An appeal under this section shall be made to a court of summary jurisdiction.

(3) Where such an appeal is brought, the notice to which it relates shall be suspended and shall not take effect pending the final determination or withdrawal of the appeal.

(4) On such an appeal, the court may correct any informality, defect or error in the notice if satisfied that the informality, defect or error is not material.

(5) On the determination of such an appeal the court shall give directions for giving effect to its determination, including, where appropriate, directions for quashing the notice or for varying the terms of the notice in favour of the appellant.

(6) Where the notice is varied or the appeal dismissed or withdrawn by the appellant, the notice, unless the court directs otherwise, shall take effect on the date of determination of the appeal.

(7) Where any person has appealed to a court under this section against a notice, neither that person nor any other shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

Appeal to Grand Court

29D. Where an appeal has been brought under section 29C, an appeal against the decision of the court of summary jurisdiction on that appeal may be brought to the Grand Court by the appellant or by the Authority.

29E. (1) If, within the period specified in a notice under section 29A in accordance with subsection (2) of that section, any steps required by the notice to be taken have not been taken, the Authority may -

Execution and cost of works required by notice under section 29A

- (a) enter the land or building and take those steps; and
- (b) recover from the person who is then the owner of the land or building any expenses reasonably incurred by the Authority in doing so.

(2) Where a notice has been served under section 29A -

- (a) any expenses incurred by the owner or occupier of any land or building for the purpose of complying with the notice; and
- (b) any sums paid by the owner of any land or building under subsection (1) in respect of expenses incurred by the Authority in taking steps required by such a notice,

shall be deemed to be incurred or paid for the use and at the request of the person who caused or permitted the land or building to come to be in the condition in which it was when the notice was served.

(3) Where by virtue of this section any expenses are recoverable by the Authority, those expenses shall be recoverable as a simple contract debt in any court of competent jurisdiction, or there may be the imposition of a caution or restriction on the property in accordance with Part VIII of the Registered Land Law (2004 Revision).

PART IV-Compensation for Refusal, or Conditional Grant of, Planning Permission

30. In this Part-

Definition of "planning decision"

"planning decision" means in the case of an application for permission to develop made under Part III, a refusal of that permission or a grant thereof whether or not subject to conditions.

31. (1) If, on a claim made to the Authority in the manner prescribed by regulations made under this Law, it is shown that, as a result of a planning decision involving a refusal of permission or a grant thereof subject to conditions, the value of the interest of any person in the land to which the planning decision relates is less than it would have been if the permission had been granted or had been granted unconditionally, then the Authority shall, subject to this Part, pay to that person compensation of an amount equal to the difference.

Compensation for planning decisions

(2) In determining for the purposes of subsection (1) to what extent, if any, the value of any interest in land is less than it would have been if the permission

therein referred to had been granted or had been granted unconditionally, it shall be assumed that any subsequent application for permission in respect of the land would be determined in the same way, except that if, on the refusal of permission for the development in respect of which application is made, the Authority undertakes to grant permission for any other development of the land in the event of an application being made in that behalf, regard shall be had to the undertaking in determining the matter aforesaid.

No compensation payable in certain cases

32. (1) Subject to any regulations, compensation under this Part shall not be payable-
- (a) in respect of the refusal of permission for any development that consists of or includes the making of any material change in the use of any buildings or other land;
 - (b) in respect of the refusal of permission to develop land if the reason or one of the reasons stated for the refusal is that the development of the kind proposed would be premature by reference to -
 - (i) the order of priority, if any, indicated in the development plan for the area in which the land is situated for development in that area; or
 - (ii) any existing deficiency in the provision of roads, water supplies or sewerage services and the period within which any such deficiency may reasonably be expected to be made good;
 - (c) in respect of the refusal of permission to develop land if the reason or one of the reasons stated for the refusal is that the land is unsuitable for the proposed development on account of its liability to flooding or subsidence;
 - (d) in respect of the imposition, on the granting of permission to develop land of any condition relating to-
 - (i) the number or disposition of buildings on any land;
 - (ii) the dimensions, design, structure or external appearance of any building, or the materials to be used in its construction;
 - (iii) the manner in which any land is to be laid out for the purposes of the development including the provision of facilities for the parking, loading, unloading or fuelling of vehicles on land;
 - (iv) the use of any buildings or other land; or
 - (v) the location or design of any means of access to a highway, or the materials to be used in the construction thereof; or
 - (e) in respect of the refusal of permission for any development where such development was prohibited or permission could have been refused under the former Law or any statutory instrument made

thereunder in force immediately prior to the 17th day of January, 1972.

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

(3) For the avoidance of doubt, it is hereby declared that paragraph (a) of subsection (1) applies only to a building or other land which has a predominant existing use at the time when, or within two years before, a development plan takes effect, including use as agricultural land, or to any land which has been developed after a development plan takes effect, but does not apply to land which has not been developed in any way.

33. (1) Subject to any regulations, compensation under this Part shall not be payable in respect of a planning decision whereby permission is refused for the development of land if, notwithstanding that refusal, there is available with respect to that land planning permission for development to which this section applies.

No compensation if other development permitted

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

(3) Where a claim for compensation under this Part is made in respect of an interest in any land, planning permission for development to which this section applies shall be taken for the purposes of this section to be available with respect to that land or a part thereof if, immediately before the Authority gives notice of their findings in respect to that claim, there is in force with respect to that land or such part thereof, a grant of, or an undertaking by the Authority to grant, planning permission for some such development, subject to no conditions other than such as are mentioned in paragraph (d) of section 32(1).

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

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

General provisions as to claims for compensation

(2) A claim for compensation under this Part shall not have effect unless it is made before the end of the period of six months beginning with the date of the

planning decision to which it relates, but the Authority may in any particular case (either before, on or after that date on which the time for claiming would otherwise have expired) allow an extended or further extended period for making such a claim.

- (3) Regulations made by the Authority under this section may-
 - (a) require claims for compensation under this Part to be made in a form prescribed by the regulations; and
 - (b) require a claimant to provide the Authority with such evidence in support of the claim, and such information as to the interest of the claimant in the land to which the claim relates, and as to the interests of other persons therein that are known to the claimant, as may be so prescribed.

1995 Revision

(4) Compensation payable under this Part shall, in default of determination by agreement, be determined in accordance with the procedure under the Land Acquisition Law (1995 Revision) with such modifications as circumstances may require.

Acquisition of land in lieu of compensation

35. Where a claim for compensation under this Part in respect of any interest in land has been determined in accordance with section 34, the Authority may, within one month after the date of the determination of such compensation and in lieu of paying the same, make an offer in writing to purchase the interest in land to which the claim for compensation relates and, if the person entitled to that interest is willing to sell the same, the Authority may forthwith acquire the interest in accordance with this Law, or if that person is unwilling to sell the same the Authority may, with the approval of the Legislative Assembly, so acquire the interest.

PART V-Acquisition and Disposal of Land for Planning Purposes

Acquisition of land

36. (1) Where any land is designated in a development plan made under Part II as subject to acquisition by the Authority or may otherwise be acquired by the Authority under this Law then the Authority may notify the Governor of their intention so to acquire such land and thereupon the Governor may proceed to acquire such land pursuant to the Land Acquisition Law (1995 Revision) as land needed for a public purpose.

(2) Any land acquired by the Governor at the instance of the Authority pursuant to this section shall be held by the Governor or transferred to any other person, in pursuance of this Law.

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

37. For the purposes of determination of compensation for the compulsory acquisition of land under this Law, the Land Acquisition Law (1995 Revision) shall be construed as if there were substituted for paragraph (a) of section 21 the following-

Amendment of section 21 of the Land Acquisition Law (1995 Revision) for the purpose of this Law

“(a) the amount which the land might have been expected to realise if, in the condition in which it was at the date of notification of intention of appropriation, either in a development plan or otherwise, it had been sold in the open market by a willing seller at a date not less than twelve months prior to that date.”.

PART VI-Infrastructure Fund

38. (1) There is established an infrastructure fund for the purpose of providing funds for development of roads, affordable housing and other infrastructure in the Islands.

Infrastructure fund

(2) The fund shall be administered by the Ministry of Finance and allocations and disbursements approved by the Governor and shall consist of moneys received under subsection (4).

(3) In this section -

(a) “Area A” means the following registration sections, blocks and parcels -

Registration Section

Block

(i) West Bay 5C (parcels with water frontage only, but including any parcel subsequently derived from another parcel with water frontage existing at the 15th September, 1997), 5D, 10A, 10E, 11B, 11C, 11D, 12C, 12D, 12E, 17A;

(ii) George Town 13B, 13C, 13E, 13EH (parcels with road frontage on West Bay Road, Eastern Avenue and North Church Street), 13D (parcels with road frontage on Eastern Avenue), 14BG, 14BH, 14BJ, 14C, 14CF, 14CJ, 14D (parcels with road frontage on Elgin Avenue, Huldah Avenue and Thomas Russell Avenue), 0PY, 19A, 19E, 20B, 20C (parcels north of Owen Roberts International Airport);

All those parcels (including any parcel subsequently derived from another parcel) on the sea side and those fronting onto South Church Street, South Sound Road, Shamrock Road and East-West Arterial in Blocks 6D, 7C and 7D, 15D, 21E, 21B, 21C and 23B.

(b) “Area B” means the following registration sections, blocks and parcels-

Registration Section

Block

Bodden Town, North Side and East End 28C, 28D (parcels zoned Neighbourhood Commercial), 33B, 33C, 33CJ, 33D, 33E, 33M, 39E, and those parcels in 57A, 61A, 65A, 69A and 73A between the sea and the Queen's Highway;
 All those parcels (including any parcel subsequently derived from another parcel) not fronting onto South Church Street, South Sound Road, Shamrock Road and East-West Arterial in Blocks 6D, 7C and 7D, 15D, 21E, 21B, 21C and 23B and bounded on the West by Walkers Road, on the North by Academy Way, Aspiration Drive, Fairbanks Road, Fern Circle, Bobby Thompson Way, and Linford Pierson Highway, and on the East by Crewe Road.

- (c) "Area C" means the registration sections, blocks and parcels in Grand Cayman and Little Cayman not included in Area A or B.
- (4) A person to whom planning permission for development of-
 - (a) an industrial building;
 - (b) a commercial building;
 - (c) a hotel;
 - (d) an apartment building;
 - (e) an institutional building;
 - (f) a house exceeding five thousand square feet in gross floor area;
 - (g) an extension to a house which would increase its gross floor area to more than five thousand square feet;
 - (h) a duplex exceeding five thousand square feet in gross floor area;
 - or
 - (i) a change of use of building,

is granted pursuant to an application made on or after the date of commencement of the Development and Planning (Amendment) Law, 2010 shall contribute to the infrastructure fund as follows -

- (i) in Area A -

Development Type	Rate for Roads and Other Infrastructure per gross sq. ft.	Rates for Affordable Housing per gross sq. ft.	Total Rate
An industrial building	\$2.50 per gross sq. ft.	\$0.00 per gross sq. ft.	\$2.50
A commercial building	\$2.50 per gross sq. ft.	\$2.00 per gross sq. ft.	\$4.50
A hotel building	\$2.50 per gross sq. ft.	\$2.00 per gross sq. ft.	\$4.50

An apartment building	\$2.50 per gross sq. ft.	\$2.00 per gross sq. ft.	\$4.50
An institutional building	\$2.00 per gross sq. ft.	\$1.50 per gross sq. ft.	\$3.50
Any house	\$1.50 per gross sq. ft.	\$5.00 per gross sq. ft.	\$6.50
An extension to a house which would increase its gross floor area to more than 5,000 square feet	\$2.50 per gross sq. ft.	\$0.00 per gross sq. ft.	\$2.50
A duplex exceeding 5,000 square feet in gross floor area	\$2.00 per gross sq. ft.	\$1.00 per gross sq. ft.	\$3.00
A change of use of building	The rate applicable to the type of development being changed to	The rate applicable to the type of development being changed to	Based on development type

(ii) in Area B -

Development Type	Rate for Roads and Other Infrastructure per gross sq. ft.	Rates for Affordable Housing per gross sq. ft.	Total Rate
An industrial building	\$1.50 per gross sq. ft.	\$0.00 per gross sq. ft.	\$1.50
A commercial building	\$1.50 per gross sq. ft.	\$1.00 per gross sq. ft.	\$2.50
A hotel building	\$1.50 per gross sq. ft.	\$1.00 per gross sq. ft.	\$2.50
An apartment building	\$1.50 per gross sq. ft.	\$1.00 per gross sq. ft.	\$2.50
An institutional building	\$1.50 per gross sq. ft.	\$1.00 per gross sq. ft.	\$2.50
A house -			
(a) 3,001 to 4,000 square feet in gross floor area	\$1.50 per gross sq. ft.	\$1.00 per gross sq. ft.	\$2.50

- (b) 4,001 to 5,000 square feet in gross floor area \$1.50 per gross sq. ft. \$1.50 per gross sq. ft. \$3.00
- (c) exceeding 5,000 square feet in gross floor area, \$1.50 per gross sq. ft. \$3.50 per gross sq. ft. \$5.00;

and an extension to a house which would increase its gross floor area to more than the respective areas specified in paragraph (a), (b) or (c) shall pay the appropriate rate

- A duplex exceeding 5,000 square feet in gross floor area \$1.50 per gross sq. ft. \$1.00 per gross sq. ft. \$2.50

A change of use of building The rate applicable to the type of development being changed to The rate applicable to the type of development being changed to Based on type of development

- (iii) in Area C, \$0.50 per square foot of the gross floor area of the development;
- (iv) without prejudice to the respective amounts prescribed in subparagraphs (i), (ii) and (iii), in the Islands an additional affordable housing fee is payable on the issue of a Certificate of Completion or Certificate of fitness for Occupancy, and will be assessed as follows -
 - (a) at a rate of \$3,000 per hotel room; and
 - (b) in Area A, at a rate of \$20,000 per apartment, in respect of applications relating to 11 or more apartments; and
- (v) in any case where the Authority is of the opinion that the development (including any temporary development) is necessary for the purpose of restoration following a national disaster, fifty

per cent of the respective amounts prescribed in subparagraphs (i), (ii) and (iii).

(5) The total contribution under subsection (4)(i) to (v) is payable as follows -

- (a) fifty per cent of the contribution is payable on the issue of a building permit; and
- (b) fifty per cent of the contribution is payable on the issue of a Certificate of Completion, Certificate of Occupancy or Certificate of fitness for Occupancy.

(6) The interest earned on the moneys of the infrastructure fund shall be retained for the purposes of the fund.

(7) In this Part -

“affordable housing” means any Government assisted housing programme undertaken under the auspices of the National Housing Development Trust, Sister Islands Affordable Homes or any similar Government entity;

“Certificate of Completion”, in relation to a building, means a certificate issued by the Authority that certifies the building is complete in accordance with planning permission requirements but does not grant permission to occupy;

“Certificate of fitness for Occupancy” or “Certificate of Occupancy”, in relation to a building, means a certificate issued by the Authority that the building is complete in accordance with planning requirements and grants permission to occupy; and

“infrastructure” means public services and utilities used in common by the residents of the Islands.

PART VII-Supplemental

39. (1) Any person duly authorised in writing by the Authority may, at any reasonable time, enter upon any land for the purpose of surveying it or estimating its value in connection with- Powers of entry

- (a) the preparation, approval, making or amendment of a development plan relating to the land under Part II, including the carrying out of any survey under that Part;
- (b) any application under Part III, or under any order or regulations made thereunder, for any permission, consent or determination to be given or effected in relation to that or any other land under Part III or under any such order or regulations;

- (c) any proposal by the Authority to serve or make any notice or order under Part III or under any such order or regulations as aforesaid; or
- (d) any claim for compensation payable by the Authority under this Law.

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

(3) A person who wilfully obstructs a person acting in the exercise of his powers under this section commits an offence and is liable on summary conviction to a fine of one hundred dollars.

(4) Where the land is damaged in the exercise of a power of entry conferred under this section or in the making of any survey for the purpose of which any such power of entry has been so conferred, compensation in respect of that damage may be recovered from the Authority by any person interested in the land.

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

(6) A person shall not carry out any works authorised by subsection (5) unless notice of his intention so to do has been included in the notice required by subsection (2).

Service of notices

40. (1) Subject to this section, any notice or other document required or authorised to be served or given under this Law, or under any regulation, order, direction or instrument in writing under this Law may be served or given either-
- (a) by delivering it to the person on whom it is to be served or to whom it is to be given;
 - (b) by leaving it at the usual or last known place of abode of that person, or in the case in which an address for service has been furnished by that person, at that address;
 - (c) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode, or in any case in which an address for service has been furnished by that person, at that address;
 - (d) by sending it in a prepaid registered letter addressed to that person at his address as stated in the Land Register; or

- (e) in the case of a body corporate by delivering it to the secretary or clerk of the body corporate at its registered or principal office or sending it in a prepaid registered letter addressed to the secretary or clerk of the body corporate at that office.

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

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

(3) Where the notice or other document is required to be served on or given to all persons having interests in or being occupiers of, premises comprised in any land, and it appears that any part of that land is unoccupied, or in the case of an enforcement notice requiring the removal, or discontinuance of the display, of an advertisement or sign, the notice shall be deemed to be duly served on all persons having interests in, and on any occupiers of, premises comprised in that part of the land (other than a person who has furnished an address for the service of the notice on him) if it is addressed to “the owners and any occupiers” of that part of the land (describing it), and is affixed conspicuously to some object on the land.

41. The Authority may, for the purpose of enabling it to make any order or serve any notice or other document that they are by this Law authorised or required to make or serve, require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises, to state in writing the nature of his interest therein, and the name and address of any other person known to him as having an interest therein, whether as freeholder, mortgagee, lessee or otherwise; and a person who, having been required in pursuance of this section to give information, fails to give that information or knowingly makes any misstatement in respect thereof, commits an offence and is liable on summary conviction to a fine of five hundred dollars.

Powers to require information

42. (1) The Governor may make regulations for the better carrying out of this Law and for giving effect thereto and in particular-

Regulations

- (a) for prescribing the form of any notice, order or other document or thing authorised or required by this Law to be served made, issued or done;
 - (b) for any purpose for which regulations are authorised or required to be made under this Law and for prescribing anything that by this Law is required or authorised to be prescribed by regulations;
 - (c) for securing with respect to the constructing of buildings (including the materials used and design) that specified standards are observed (including a building code); and for securing the installation of suitable and adequate drains and drainage systems in connection with the buildings;
 - (d) in relation to the construction of buildings for securing the proper access of air and light to buildings and parts of buildings and for prescribing the minimum dimensions of rooms in buildings;
 - (e) for empowering such authorities or persons as may be specified in the regulations to administer or execute the regulations and to make orders, impose requirements or give directions for the purposes of the regulations;
 - (f) for empowering such authorities or persons as may be specified in the regulations to take measures, including the entry and inspection of any land or building and the carrying out of works, to secure compliance with the regulations or any order, requirement or direction made, imposed or given thereunder; and for enabling such authorities or persons to recover expenses incurred by them in the exercise of any such power;
 - (g) without prejudice to any other provision of this Law, for prescribing fees, tariffs or charges for any service provided under this Law;
 - (h) for the review or decisions given under the regulations;
 - (i) in amplification of any of the matters specified in Schedule 2;
 - (j) for the public notification of applications for development the grant of which may injure neighbouring landowners, the right of objection of such landowners to the decision of the Authority or Board and the right of appeal of objectors; and
 - (k) for the payment of interest and for grant of relief from taxes in any case where there is an unreasonable delay in an acquisition by the Authority, and for the grant of relief in cases where the application of this Law relating to compensation operates inequitably.
- (2) Any regulations made under this Law may be made so as to apply generally or in relation to any particular area specified in the regulations.
- (3) *Repealed by section 12 of Law 30 of 2010.*

(4) Any regulation made under this Law may provide for the imposition of a fine of five thousand dollars and imprisonment for six months for any contravention of, or failure to comply with, such regulation.

43. (1) For the purposes of enquiries under section 11(3) there may be established such one or more Development Plan Tribunals as the Governor may determine.

Development Plan
Tribunals

(2) A Development Plan Tribunal shall consist of a chairman, a deputy chairman (who in the temporary absence or inability to act of the chairman shall act as chairman) and such other members not exceeding two in number, all of whom shall be appointed by, and hold office at the pleasure of the Governor.

(3) Three members of the Development Plan Tribunal Board shall form a quorum.

(4) Members of the Development Plan Tribunal shall be entitled to be paid out of the Treasury subsistence and travelling allowances at the same rates as those paid to members of the Tribunal.

(5) A Development Plan Tribunal and its members shall-

- (a) have the same duties;
- (b) enjoy the same powers, privileges and immunities; and
- (c) follow the same procedures and rules as the Tribunal and its members.

44. For the avoidance of doubt it is hereby declared that the provisions of this Law, and any restrictions or powers thereby imposed or conferred in relation to land, apply and may be exercised in relation to any land notwithstanding that provision is made by any law or statutory instrument in force on the 17th day of January, 1972 for authorising or regulating any development of the land.

Application to land
regulated by special
enactments

45. (1) Subject to this section, where any works for the erection or alteration of a building have been begun but not completed before the appointed day, then if any permission required under the former Law for the carrying out of these works has been granted, planning permission shall by virtue of this section be deemed to have been granted under Part III in respect of the completion of those works.

Unfinished buildings

Law 2 of 1969

(2) The permission deemed to have been granted by virtue of this section shall be deemed to have been so granted subject to any conditions imposed by the permission granted under the former Law and shall include permission to use the building when erected or altered for the purpose for which the building, or the building as altered, is designed.

- Appeals Tribunal
46. (1) For the purposes of this Law there is established an Appeals Tribunal which shall consist of-
- (a) a Chairman;
 - (b) no more than seven Deputy Chairmen; and
 - (c) seven other members,
- all of whom shall be appointed by and hold office at the pleasure of the Governor.
- (2) In the temporary absence or inability to act of the Chairman, any Deputy Chairman may act as Chairman and exercise all the powers and functions of the Chairman.
- (3) Three members of the Tribunal shall form a quorum.
- (4) Members of the Tribunal shall be entitled to be paid out of the Treasury subsistence and travelling allowances at a rate equivalent to the agreed rate paid to members of the Legislative Assembly.
- Cayman Brac and Little Cayman Appeals Tribunal
47. (1) For the purposes of this Law, there is hereby established for Cayman Brac and Little Cayman an Appeals Tribunal which shall consist of a Chairman and five other members appointed by and holding office at the pleasure of the Governor. The Chairman shall be a person holding the office of Magistrate and the members shall be persons for the time being resident in Cayman Brac or Little Cayman.
- (2) The Chairman and any two other members of the Appeals Tribunal shall form a quorum.
- (3) Members of the Appeals Tribunal (other than the Chairman) shall be entitled to be paid out of the Treasury subsistence and travelling allowances at a rate equivalent to the agreed rate paid to members of the Legislative Assembly.
- Appeals against decisions of Authority
48. (1) Any person who is aggrieved by a decision of the Authority in respect of an application for planning permission, may, within fourteen days of notification or publication of that decision, whichever occurs the sooner, or within such longer period as the Appeals Tribunal may in any particular case allow for good cause, appeal against that decision to the Appeals Tribunal on the ground that it is -
- (a) erroneous in law;
 - (b) unreasonable;
 - (c) contrary to the principles of natural justice; or
 - (d) at variance with any development plan having effect in relation thereto,

but not otherwise; and such appeal shall be heard by the Tribunal within six months of such appeal being lodged and such appeal shall be heard and determined based on the record of the hearing to which it relates in accordance with any rules made hereunder.

(2) After hearing an appeal hereunder, the Tribunal may confirm, reverse or modify any decision of the Authority or may in appropriate circumstances remit the matter to the Authority with or without directions as to rehearing the matter, and may make such order (including any order for costs) as it thinks just and where the Tribunal finds that an appeal has been made which is frivolous and vexatious, the Tribunal may award costs on an indemnity basis against the appellant.

(3) In the event of the Tribunal being equally divided in the matter of any decision the Chairman shall have a second or casting vote.

(4) Any person aggrieved by a decision of the Tribunal under subsection (2) may, within fourteen days, appeal against that decision to the Grand Court on the ground that it is -

- (a) erroneous in law;
- (b) unreasonable;
- (c) contrary to the principles of natural justice; or
- (d) at variance with a development plan having effect in relation thereto,

but not otherwise.

(5) After hearing the parties to an appeal under subsection (4), the Grand Court may confirm, reverse or modify any decision of the Tribunal.

(6) The Chief Justice shall make rules for the better carrying out of this section, for the procedure and forms to be used for the admission of evidence and fees to be paid on any appeal under this Law.

(7) Any person aggrieved by a decision of the Grand Court under subsection (5) may, within fourteen days, appeal against that decision to the Court of Appeal on a point of law, and the decision of the Court of Appeal shall be final and binding upon the parties affected thereby.

49. (1) Any person who is aggrieved by a decision of the Board in respect of an application for planning permission, may, within fourteen days of notification or publication of that decision whichever occurs the sooner, or within such longer period as the Appeals Tribunal may in any particular case allow for good cause, appeal against that decision to the Appeals Tribunal on the ground that it is -

Appeals against
decisions of Board

- (a) erroneous in law;
- (b) unreasonable;
- (c) contrary to the principles of natural justice; or
- (d) at variance with any development plan having effect in relation thereto,

but not otherwise; and such appeal shall be heard by the Tribunal within six months of such appeal being lodged and such appeal shall be heard and determined based on the record of the hearing to which it relates in accordance with any rules made hereunder.

(2) Section 48(2), (4), (5), (6) and (7) shall apply to appeals under this section as if references in that section to “the Tribunal” were references to the Appeals Tribunal.

(3) The Chairman of the Appeals Tribunal shall not have an original vote but in the event of the other members of the Tribunal being equally divided he shall have a casting vote.

Annual report

50. The Authority shall, during the month of March in every year, submit a report to the Governor for the information of the Legislative Assembly containing an account of the Authority’s activities during the twelve months ending on the thirty-first day of December next preceding the date of the report.

Saving of existing laws

51. (1) Subject to subsection (2), nothing in this Law shall derogate from the-

2011 Revision
2005 Revision
1995 Revision
1995 Revision
1998 Revision
1997 Revision
2007 Revision
1998 Revision
2002 Revision
2005 Revision

- (a) Animals Law (2011 Revision).
- (b) Governor (Vesting of Lands) Law (2005 Revision);
- (c) Hotels Aid Law (1995 Revision);
- (d) Land Acquisition Law (1995 Revision);
- (e) Minerals (Vesting) Law (1998 Revision);
- (f) Mining Law (1997 Revision);
- (g) Mosquito (Research and Control) Law (2007 Revision);
- (h) Petroleum Law (1998 Revision);
- (i) Public Health Law (2002 Revision); and
- (j) Roads Law (2005 Revision).

(2) Where, but for subsection (1), the exercise of any power under any of the enactments specified under that subsection would contravene any development plan or require planning permission under Part III, then such power shall be exercised in consultation with the Authority and, in the event of any dispute between the Authority empowered to exercise such power and the Authority, the dispute shall be referred to the Governor for determination.

52. Subject to the appropriation by the Legislative Assembly of the requisite funds, the cost of the administration and giving effect to this Law shall be a charge on the Treasury. Financial provision
53. This Law binds the Crown but where the Governor decides that the public interest requires, the Governor may, by Order published in the Gazette, waive the requirement to obtain permission pursuant to section 13; but nothing in this section shall be construed so as to allow the Governor to waive any other requirement of this Law or any regulations made under this Law. Application
54. A person who contravenes any provision of this Law for which no penalty is elsewhere prescribed commits an offence and is liable on summary conviction to a fine of five thousand dollars and to imprisonment for one year. General penalty
55. (1) Every application for permission to develop land made under the former Law and wholly or partly dealt with by the Authority or Board as at the 30th July, 2002, is to be continued and dealt with in all respects under the former Law. Transitional provisions
- (2) Permission to develop land, granted as a result of an application determined under subsection (1), is to be granted on the same terms and conditions that would have applied under the former Law.
- (3) Every application for permission to develop land made under the former Law and not wholly or partly dealt with by the Authority or Board as at the 30th July, 2002, is to be taken to be an application made under this Revision.
- (4) In the case of an appeal against –
- (a) any decision of the Authority or Board; or
 - (b) any decision or order of the Tribunal or Appeals Tribunal,
- that has been commenced but not finally determined as at the 30th July, 2002, the appeal is to continue to be dealt with under the former Law; and when the appeal is finally determined, the former Law is to apply subject to any necessary modifications as if the appeal had been finally determined before the 30th July, 2002.
- (5) Any permission to develop land, granted under the former Law and in force immediately before the 30th July, 2002 -
- (a) shall have effect from that date, as if granted under this Revision; and
 - (b) in the case of permission granted for a limited period only, shall remain in force, subject to the provisions of this Revision, for so much of that period as falls after that date.

(6) In this section -

“permission granted for a limited period only” has the meaning assigned to that expression by section 15(2); and

1999 Revision

“former Law” means the Development and Planning Law (1999 Revision) as amended by Laws 11 of 2001 and 33 of 2001.

SCHEDULE 1

CONSTITUTION AND PROCEDURE OF AUTHORITY AND BOARD

section 3 (5)

1. A member of the Authority or Board shall, subject to this Schedule, hold office for a period not exceeding two years but such member shall be eligible for re-appointment.
2. The Governor may appoint any person to act temporarily in the place of the Chairman or a member of the Authority or Board in the case of the absence or inability to act of the Chairman or of such member as the case may be.
3. The Chairman or any member may, at any time, resign his office by instrument in writing addressed to the Governor and such resignation shall take effect as from the date of receipt of such instrument by the Governor.
4. The Governor may, at any time, revoke the appointment of any member, including the Chairman.
5. The Authority or Board shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Chairman may determine.
6. If the Chairman is absent from a meeting the other members present at the meeting shall elect one of their number to preside thereat as Chairman.
7. The quorum of the Authority shall consist of five members and the quorum of the Board of three members.
8. The decisions of the Authority or Board shall be by a majority of votes of members present and voting and, in addition to an original vote, the Chairman shall have a second or casting vote in any case in which the voting is equal.

9. Minutes in proper form of each meeting shall be kept by the secretary and shall be confirmed by the Chairman as soon as practicable at a subsequent meeting.
10. Subject to this Schedule the Authority and Board shall have power to regulate their own proceedings.
11. The validity of any proceedings of the Authority or Board shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.
12. The Authority and Board shall have the power to co-opt any person whom it considers able to assist it in its deliberations and, in that event, any person so co-opted shall be deemed to be a member for so long as he is co-opted save that such person shall have no vote and shall not be counted for the purposes of constituting a quorum.
13. In this Schedule-
“Chairman” includes a person appointed or elected as the case may be to act temporarily in place of the Chairman appointed by the Governor.

SCHEDULE 2

MATTERS FOR WHICH PROVISION MAY BE MADE IN DEVELOPMENT PLANS

section 9(4)

PART I-Roads

1. Reservation of land for roads and establishment of rights of way.
2. Closing or diversion of existing roads and rights of way.
3. Construction of new roads and alteration of existing roads.
4. The line, width, level, construction, access to and egress from, and the general dimensions and character of roads, whether new or existing.
5. Providing for and generally regulating the construction or execution of works incidental to the making or improvement of any road, including the erection of bridges, culverts, gullies, fencing, barriers, shelters, the provision of

artificial lighting, and seats and the planting or protecting of grass, trees and shrubs on or adjoining such road.

PART II-Buildings and Other Structures

1. Regulating and controlling, either generally or in particular areas-
 - (a) the size and height and bulk of buildings;
 - (b) building lines, site coverage and the space about buildings and on site parking;
 - (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; and
 - (e) the prohibition of building or other operations on any land, or regulating such operations.
2. Regulating and controlling the design and materials of buildings and fences, boundary walls and sea walls.
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 over, on, in or under any area.

PART III-Community Planning

1. Providing for the control of land by zoning or designating it for specific uses.
2. Regulating the lay-out of housing areas including density, site coverage, subdivisions, spacing, grouping and orientation of houses in relation to roads, open spaces and other buildings.
3. Determining the provision and site of community facilities including shops, schools, churches, meeting halls, play centres and recreation grounds in relation to the number and site of houses.

PART IV-Amenities

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

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

PART V-Public Services

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

PART VI-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 VII-Miscellaneous

1. Providing for and regulating the making of agreements for the purpose of a development plan by the Authority with the Board or with owners and other persons, and by the Board with such persons and by such persons with one another.
2. Providing for subdivision of land and in particular-
 - (a) regulating the type of development to be carried out and the size and form of plots;
 - (b) requiring the allocation of land for any of the public services referred to in Part V of this Schedule or for any other purposes referred to in this Schedule for which land may be allocated; and
 - (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 controlled by the Board; and
 - (b) effecting such exchanges of land or cancellation of existing subdivision plans as may be necessary or convenient for the purposes aforesaid.

Publication in consolidated and revised form authorised by the Governor in Cabinet this 18th day of October, 2011.

Kim Bullings
Clerk of Cabinet

(Price \$ 11.20)