

THE PLANNING AND DEVELOPMENT OF LAND BILL,
1999

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No. 45 of 1999

Fifth Session Fifth Parliament Republic of Trinidad
and Tobago

SENATE

BILL

AN ACT to provide for the orderly and progressive development of land in both urban and rural areas and to preserve and improve the amenities thereof, for the grant of permission to develop land and for other powers of control over the use of land and the design, construction and occupation of buildings; to confer additional powers for the protection of the environment, and the architectural and cultural heritage, and for the acquisition and development of land for planning; and to provide for purposes connected with the matters aforesaid.

THE PLANNING AND DEVELOPMENT OF LAND
BILL, 1999

Explanatory Note

(This note forms no part of the Bill but is intended merely to indicate its general purport)

The main objective of the Bill is to provide a legislative framework for reforming the administration of what, in Trinidad and Tobago, is traditionally referred to as “town and country planning.”

The Bill seeks to make physical planning more accessible to local communities and to render it more responsive to changing circumstances and to the policies of government. Key provisions for the support of these reforms would be the establishment of a National Physical Planning Commission (NPPC) which would advise the Minister as well as ensure that preparation of local area plans and consideration of a preponderance of development control matters are devolved to local government level.

The Commission is responsible to the Minister having responsibility for physical planning. Appropriate professional independence is ensured, however, by defining the roles of the Minister and the Commission and their specific areas of responsibility. On policy matters, the Commission is clearly advisory to the Minister and Government. Once the policy framework has been ratified by Parliament, the Commission has responsibility for development control and national physical planning subject to two provisos. The Commission must act within the prescribed policy framework and must seek to devolve planning functions to the Local Government level as soon as possible. In these matters as in others discussed below, the Minister retains over-riding or “call in” powers.

The Bill would also provide more public guidance for developers and would increase the likelihood of consistency in decision-making by setting out in the legislation the considerations to be taken into account in reaching planning decisions. Further, by requiring all persons making decisions under the Act to have regard to those considerations, the Bill seeks to ensure that all pertinent factors are considered upon initial presentation of development proposals so that appeals, frustration, and delays are minimized.

The Bill would bring together, in a single agency, responsibility for building construction and for land development approvals. Initially, there would be central direction of the building approval powers that are now exercised at local government level. This is only to facilitate effective reorganization and streamlining of the approval process. Building construction approvals will be decentralized to local authorities as soon as that reorganization and streamlining are accomplished.

Development control decisions (other than those taken by the Minister) will be subject to review by an expert tribunal established under the Act to provide for an independent judicial process that would eventually be harmonized with the environmental court and with adjudication of other routine land related disputes.

The Bill would permit greater flexibility and adaptability in the responses of planning officials to development initiatives in a number of areas. Thus, it would introduce a greater range of devices for development control (for example: the listing of building of special historical or architectural merit, building preservation orders, environmental repair notices, environmental protection area orders, and service charges to transfer to unlawful developers the cost occasioned the public for collective works necessitated or amenities lost through unauthorized development).

PART I

(PRELIMINARY)

Clause 2, in Part I, contains general interpretation provisions. Clause 2 indicates that the key concept “development” is defined (at clause 35) to mean “. . . the carrying out of building, engineering, mining or other operations . . . the making of any material change in the use of any buildings or other land, or the subdivision of any land . . .”.

Clause 3(1) would explain the objects and purposes of the Bill. Among other ultimate aims, these include:

- fostering recognition of a duty to use land with due regard for the wider interests both present and future of society as a whole;
- maintaining and improving the quality of the physical environment;
- achieving orderly, economical and beneficial development; and

- protecting and conserving the cultural heritage of Trinidad and Tobago as expressed in its natural and built environment; and
- providing for the orderly subdivision of land for residential as well as non-residential uses so as to facilitate timely and efficient provision of infrastructural works and utility and other appropriate services; and to ensure that parcels are not divided into under-sized units unfit for rational exploitation.

Clause 4 would describe the responsibility of the Minister. The Minister is responsible for ensuring that the Act is duly administered and implemented to secure the objects set out in section 3 and for the framing and the general supervision of the implementation of planning and land development policies.

Clause 5 would provide for establishment of the National Physical Planning Commission of Trinidad and Tobago as a body corporate and provides for its constitution which is set out in the First Schedule.

Clause 6 would provide for the functions of the National Physical Planning Commission of Trinidad and Tobago. The Commission would be responsible for the day to day administration of the physical planning system. Principal functions of the Commission would be—

- to advise the Minister with respect to the framing of development policies and to secure consistency and continuity in the implementation of those development policies approved by the Minister;
- to prepare a comprehensive physical development plan for Trinidad and Tobago;
- to develop codes of appropriate building construction and land development standards and practices;
- to ensure that all persons and agencies concerned comply with the requirements of the development plan, and the adopted codes and standards;
- to co-ordinate the land development approval process and grant all approvals required for commencement of construction of projects of national importance, or unique, first-time or large-scale projects, where appropriate procedures, codes or standards have not been established;

to ensure that, wherever it is expedient, all functions relating to development control, issuance of building permits, or construction and occupancy approvals that can be discharged at local levels are devolved to local authorities as quickly and as transparently as possible; and

to consider and determine those more technically sophisticated applications for permission to develop land which have not been devolved to local authorities subject always to the right reserved to the Minister to call up any application for his own determination.

Clause 7 would set out duties that the Commission must discharge in supporting the Minister in securing the objects of the Act. These include—

preparing the National Physical Development Plan for the Minister's adoption;

adopting and submitting for the Minister's approval land development regulations; and

monitoring the effectiveness of the National Physical Development Plan.

Clauses 10 and 11 would provide for the appointment of committees for the more effective management of Commission business generally and for the appointment of four standing committees, namely—

National Physical Development Plan;

Codes and Standards;

Development Control; and

National Land-use Policies and Long-term Goals.

Clauses 12 to 15 would provide for the appointment of the Commission's principal technical officers: a Director of Planning who would be directly in charge of all Commission planning personnel and would advise the Commission on all planning matters; a Chief Building Official who would be responsible for the issuance of building permits and enforcement of all building and construction related codes; a corporate secretary; and a specialist legal officer.

Clause 17 would provide for the early devolution of development control and building construction approval functions to local authorities.

Clause 18 would provide for the appointment of local authorities as planning authorities to prepare local development plans. A primary focus of a local development plan would be the detailing and implementation of the National Physical Development Plan at the local level.

Clause 19 would require the Minister to appoint local authorities to be Planning Authorities with power to approve a preponderance of applications for permission to develop land within their boundaries.

Clause 20 would provide for the delegation of planning functions by local authorities to committees and officers of the councils of the local authorities.

PART III
(Clauses 23 to 33)
(DEVELOPMENT PLANS)

Development plans are central policy documents embodying policies and proposals for guiding future decisions on the use and development of land. This Part deals with their preparation, their function and content, and their adoption and approval by the political directorate.

Clause 23 indicates the nature and function of the National Physical Development Plan. The NPDP must—

be consistent with the social, economic, regional, environmental and cultural development policies of Government;

provide the policy framework within which regional and local planning can be undertaken;

comprehensively draw together and link the functional plans prepared by individual sectoral agencies; and

have as its primary focus—

(a) issues of national policy and the co-ordination of functions;

(b) the identifying of problems and opportunities created by demographic change and industrial and other activity; and

(c) the adoption of strategies for exploiting resources and opportunities and minimizing environmental land-use problems resulting from human activity;

The NPDP would in essence be a strategic plan that leaves much of the detailing of permitted land uses and locating of public improvements to be worked out in local plans.

Clause 24 would set out both mandatory and optional matters to be dealt with in development plans.

Clause 25 would empower the Minister to define the nature and scope of any plan which a planning authority is appointed to prepare.

Clause 26 would prescribe the steps and the manner of preparation of development plans. One objective of these steps is to ensure maximum public participation by those likely to be affected by the plan.

Clause 29 would require that, before a plan is submitted for approval by the Minister, the Commission must certify the plan as having been prepared in the manner prescribed as well as being consistent with the National Physical Development Plan after affording to any interested authority, person, or body opportunity to make objections, representations or comments in relation to the plan.

Where objections are received, the Commission may make provision for a public inquiry into the plan. The Commission may certify the plan with or without amendment and submit the plan with a summary of any objections or comments received and the report on any inquiry into the plan and the Minister may, by order, approve the plan so submitted.

A development plan for the whole of Trinidad and Tobago approved by the Minister is subject to affirmative resolution of Parliament. Any other plan approved by the Minister is subject to negative resolution of Parliament.

An approved development plan for the whole of Trinidad and Tobago which when submitted to Parliament is not approved by affirmative resolution and any other development plan which is the subject of negative resolution shall cease to have effect and shall not be taken into account in any decision taken under the Act.

Clause 32 would allow the Minister to issue Policy Statements which, together with development plans and other material considerations, would be taken into account in arriving at decisions in matters governed by the Act.

PART IV
(Clauses 34 to 60)
(DEVELOPMENT CONTROL)

Development control comprises the range of administrative measures and legal devices employed by planning departments with the aim of ensuring that development conforms to the Plan and existing policies.

Clause 34 would provide that, unless the Act expressly provides otherwise, permission must be obtained under this Part before any development is commenced.

Clause 35 would provide an extended definition of the word "development". Certain types of activities included in the ordinary meaning of the word would be excluded from its legal meaning in the Act.

Clause 36 would require the Minister to provide for the grant of permission through the making of "Development Orders". A Development Order might grant permission in the Order itself in relation to a specified development or a specified class of development or the Order might provide for permission to be granted upon the submission of an application in accordance with the provisions of the Order.

For the purpose of enabling development to be carried out in accordance with a development plan, clause 36(4) would permit a Development Order to direct that the provisions of a pre-existing written law should not apply to any development permitted by the Order.

Clause 36(5) would render every Development Order subject to negative resolution of Parliament.

Clause 37 would provide for the making of applications for permission to develop land.

Clause 38 would require that applications for permission to develop land be accompanied by written consent of the owner of the land concerned or of his duly authorized representative.

Clause 39 would provide for the publicizing of certain categories of applications for permission to develop land and would require inviting of public comments on such applications prior to rendering decisions thereon.

Clause 40 would provide for the determination of applications for permission to develop land, would require the provision of

reasons for refusals or for the imposition of conditions upon the granting of permission, and would indicate the range of matters that might properly be taken into account in determining applications.

Clause 41 would indicate the matters that could be made the subject of a condition upon a grant of permission to develop land.

Clause 42 would limit the duration of permission to develop land to a period of five years.

Clause 43 would provide for the grant of outline development approval (i.e., "approval in principle") for erection of buildings or subdivision of land.

Clause 44 would limit the duration of outline development approval to a period of one year.

Clause 45 would permit the making of agreements for the future development of land (for example, where an application entails complex proposals or where land is to be developed in phases).

Clause 46 would expressly recognize the power to require the provision of performance bonds for the satisfying of conditions imposed on the granting of permission or for complying with the terms of planning agreements.

Clause 50 would provide for the revocation or modification of permission to develop land, subject to the payments of compensation in certain cases.

Clause 51 would provide for the service of development Completion Notices notifying that the permission to develop land to which the notice relates would cease to have effect after a specified period of at least one year, where it appears that any development authorized by the permission is unlikely to be completed in a reasonable time.

Clause 52 would provide for the service of immediate compliance orders or compliance notices specifying development that is alleged to have been carried out without permission and indicating what corrective measures are required to be taken within specified times in order to make land that is alleged to have undergone unauthorized development conform with the requirements of the Act.

Clause 54 would permit the grant of permission to retain unauthorized development subject to the payment of service charges aimed at defraying the cost of meliorative or corrective

works rendered necessary to abate nuisance, damage to amenity, or injury to the environment occasioned by breaches of planning control.

Clause 55 would allow the entry upon land to institute required corrective measures where an owner or developer fails to institute such measures within the time specified in a compliance notice or immediate compliance order.

Clause 58 would permit the service of an Environmental Repair Order where alleged unauthorized development involves operations entailing threat of significant harm to the environment (such as: hillside erosion, landslides, severe flooding, pollution of water supply or land by the dumping of toxic waste, etc.). Not only would an Environmental Repair Order require that unauthorized operations immediately cease, it would also require the developer to take prompt action to restore the land so as to prevent or minimize the stated environmental hazard.

Clause 60 would provide for the regulation of “Areas of Special Interest” and other special regimes such as:

- establishment of Environmental Protection Areas and the control of development in areas so established;
- preparation and consideration of Environmental Impact Assessments;
- listing of buildings of special architectural or historical merit or interest and the making of building preservation orders;
- making of Tree Preservation Orders for the preservation of trees and woodlands in the interests of amenity and proper development of land;
- control of the display of outdoor advertisement; and
- maintenance of waste land.

PART V
(Clauses 61 to 72)
(BUILDING CODES AND PERMITS)

Part V provides for the adoption of building codes and for their administration by a Chief Building Official and Inspectors.

Clause 61 would provide for the establishment of a Building Code consisting of engineering and design standards applicable to construction of buildings to ensure safety.

PART VI

(REGISTRATION OF PROFESSIONALS, EXPEDITION OF CONSTRUCTION APPROVALS AND CO-ORDINATING OF DEVELOPMENT APPROVALS)

Part VI would provide for the recognition of registered professionals in the development approval process with the objective of expediting commencement of construction.

Clause 85 would provide for the issue of a building permit upon the certificate of a listed professional attesting that submitted plans, comply with all mandatory standards if such plans had been submitted at least thirty days earlier and no approving or consulting agency has reported that the plans are deficient. Notwithstanding the issue of any such building permit, deficiencies in the plans submitted or in work executed pursuant to such plans must be made good at the expense of the listed professional.

PART VII

(ESTABLISHMENT AND JURISDICTION OF PLANNING AND DEVELOPMENT APPEAL BOARD)

Part VII would establish a Planning and Development Appeals Board as an expert tribunal to review development control decisions other than those taken by the Minister.

PART VIII

(SUPPLEMENTAL)

This Part would provide for powers of entry on land for the purposes of the Act, for the service of notices, for the inspection of documents, for the promotion of public awareness of the functions of planning, its processes and issues touching the preservation and enhancement of the natural and built environment. It would provide generally for the making of regulations.

Clause 110 would provide that the Act binds the State.

BILL

AN ACT to provide for the orderly and progressive development of land in both urban and rural areas and to preserve and improve the amenities thereof, for the grant of permission to develop land and for other powers of control over the use of land and the design, construction and occupation of buildings; to confer additional powers for the protection of the environment, and the architectural and cultural heritage, and for the acquisition and development of land for planning; and to provide for purposes connected with the matters aforesaid.

[, 1999]

ENACTED by the Parliament of Trinidad and Tobago as Enactment follows:

1. (1) This Act may be cited as the Planning and Short title and commencement Development of Land Act, 1999.

(2) This Act shall come into operation on such day as is appointed by the President, and different days may be appointed for the coming into operation of different provisions.

PART I

INTERPRETATION AND PURPOSE

Interpretation

2. In this Act—

“advertisement” means anything visible that is employed wholly or in part for the purposes of advertisement, announcement or direction and, without limiting the generality of the foregoing, includes any hoarding or similar structure, any wall-painting and any balloon used or adapted for use for the display of advertisements;

“agriculture” includes horticulture, fruit cultivation, seed cultivation, cultivation in forest, dairy farming, livestock breeding and keeping, including the breeding and keeping of any animal for the production of food, wool, skins or fur, or use in the farming of land, the use of land as grazing land, meadow land, market gardens and nursery grounds, and woodlands where that use is ancillary to the farming of land for other agricultural purposes, but does not include aquaculture;

“aquaculture” includes the cultivation of aquatic plants and animals for the production of food or mariculture and the use of aquatic habitats for such purposes including, without limiting the generality of the foregoing, the use of reefs for reef farms, and the use of aquatic habitats for reserves, hatcheries, raceways and fish ponds, and the building on or placing in aquatic habitats of artificial reefs, fish pens, fish cages and fish tanks;

“aquatic habitat” means water or land wholly or partly covered by water, including, without limiting the generality of the foregoing, reefs including artificial reefs;

“aquatic plants and animals” means plants and animals that, at most stages of their development or life cycles, live in an aquatic habitat;

“Board” means the Planning and Development Appeals Board established by section 90;

“building” means any structure consisting of a wall, roof and floor or any one or more of the foregoing and includes all works, fixtures and service systems appurtenant thereto and such other structures as may be designated by regulations, but does not include any plant or machinery found in or on the structure whether or not affixed thereto;

“building code” means the building code or codes provided for in section 61;

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

“building permit” means a permit issued pursuant to section 64 authorizing construction or other engineering operation;

“Chief Building Officer” means the official appointed under section 14;

“Commission” means the National Physical Planning Commission of Trinidad and Tobago established by section 5;

“compliance notice” means a notice served under section 52(11);

“construct” means to do anything with respect to the erection, installation, extension, material alteration or repair of a building, and “construction” has a corresponding meaning;

“demolition” means the pulling down or removal of a building or any material part thereof;

“demolition permit” means a permit issued under section 63;

“development” has the meaning assigned to it by section 35 and “develop” has a corresponding meaning;

“development completion notice” means a notice served under section 51 and includes a provisional development completion notice;

“development order” means an order made under section 36;

“development plan” has the meaning assigned to it by section 24;

“Director” means the Director of Planning appointed under section 12(1);

“engineering operations” includes cutting, filling, grading or paving land, cutting drains or drainage or irrigation channels, the formation or laying out of streets or other means of access to highways, and the reclamation of land, and any other activity prescribed;

“environmental hazard” has the meaning assigned to it by section 58;

“environmental impact assessment” has the meaning assigned to it by paragraph 5 in the Second Schedule;

“environmental repair order” means an order issued under section 58;

“erection” in relation to a building includes construction, extension, alteration and re-erection of the building;

“fish” includes oysters, crabs, shrimps, turtles, turtle eggs, coral and any species of marine or other aquatic animals and the eggs, sperm, spawn, larvae, sprat and juvenile stages thereof;

“highway authority” means any authority responsible for the maintenance of roads;

“immediate compliance order” means an order served under section 52(7);

“inspector” includes an inspector appointed under section 14 and having jurisdiction for the enforcement of Part V;

“land” includes a building, as defined in this section, and land underlying the sea waters surrounding the coast within the territorial waters of Trinidad and Tobago, and, in relation to the acquisition of land, includes any interest in or over land;

“local authority” means—

(a) the council of a municipal corporation within the meaning of the Municipal Corporations Act; or No. 21 of 1990

(b) the Tobago House of Assembly;

“material change” in the use of land or a building includes a change from a nil use to any use and any operation which would have the effect of preventing any land or building from being used for the purpose for which it was previously used, and includes such changes as may be prescribed;

“minerals” includes all naturally occurring metallic and non-metallic minerals, natural gas, petroleum and related substances, such as pitch, including coal, salt, quarry and pit material, gold, silver and all other rare and precious metals, sand, gravel, peat, pulverized fuel, furnace ash, clinker, iron, or other metallic slag, tailings and waste rock;

“mining operations” includes the exploration, preparation, construction, operation, decommissioning and rehabilitation phases related to the working or winning of minerals, and includes—

(a) any alteration, disturbance or removal of plants, animals, overburden or other materials incidental to any phase of such activity;

(b) the installation or operation of any tailing or waste facility, roasting or smelting furnace, concentrator, mill, drill rig or platform, gathering or pumping station or any work-place, machinery or pipeline used for or in connection with the processing or treating of minerals; and

(c) the retention of any matters referred to in subparagraphs (a) and (b) that have been temporarily suspended, rendered inactive, closed out or abandoned;

“Minister” means the Minister to whom responsibility for physical planning and development of land is assigned;

“occupancy certificate” means a certificate issued pursuant to section 65;

“outline development approval” has the meaning assigned to it by section 43;

“owner”, in relation to any land, includes any person in possession or in receipt either of the whole or any part of the rents or profits of any land, whether in his own right or as trustee, personal representative, committee, guardian, or agent of any other person, or in the occupation of such land, other than as a tenant from year to year, or for any less term, or as a tenant at will;

“permit”, for purposes of Part V, means a building permit or a demolition permit;

“person interested” includes any person with a direct or indirect financial interest;

“planning authority” means—

(a) the Tobago House of Assembly;
and

(b) any local authority, or any other body or authority appointed—

(i) to prepare development plans pursuant to section 18; or

(ii) to determine applications for permission to develop land or to discharge other development control functions under Part IV;

“permission to develop land” means permission granted under this Act to develop land, whether subject to or without conditions;

“former Act” means the Town and Country Planning Act;

Chap. 35:01

“regulations” includes a building code, codes and standards in relation to infrastructure works, and other subsidiary legislation made or adopted under this Act;

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

“statutory undertakers” means any person authorized by any act to carry on any railway, light railway or tramway, any road transport, air transport, water transport, canal or inland navigation system, any undertakings including docks, harbours, piers, lighthouses and airports, any undertaking for the supply of electricity, water, gas, steam, hydraulic power or telecommunications service, or for the operation of any sewerage, drainage or irrigation system;

“subdivision” means the division of any land (other than buildings) held under one ownership into two or more parcels—

(a) whether such division is effected by deed of conveyance, transfer, agreement, vesting order, partition order, will or other instrument;

(b) whether for the purpose of sale, lease, mortgage, gift, devise or any other purpose; and

(c) whether or not the division involves any change in the use of any of the parcels,

but is deemed not to include—

(d) the creation of a periodic tenancy for a tenancy from year to year or any lesser period; or

(e) the granting of a lease the term of which, together with any period contemplated by any option or right of renewal, does not exceed three years in aggregate;

(f) the division of any land by means of acquisition under the Land Acquisition Act;

Act No. 28 of 1994

(g) the division of a cemetery into burial plots;

“tree” includes palms, bamboos, stumps, brush wood, canes, mangroves, bushes and hedges;

“toxic” in relation to material or waste, means any substance known to be poisonous, corrosive, irritating, sensitizing or harmful to humans, animals or plants and includes any substance or waste prescribed by the Minister as toxic or identified as a “hazardous substance” under the Environmental Management Act;

Act No. 3 of 1995

“utility services” means the provision of gas, electricity, sewerage, waste disposal, telecommunications or water supply services howsoever such services may be provided;

“waste” includes any material discarded or intended to be discarded which—

- (a) constitutes garbage, refuse, sludge, or other solid, liquid, semi-solid or gaseous material resulting from any residential, community, commercial, industrial, manufacturing, mining, petroleum or natural gas exploration, extraction or processing, agricultural, health care, or scientific research activities;
- (b) is otherwise identified by the Environmental Management Authority as a waste under the Environmental Management Act.

Objects and purposes
of Act

3. (1) The objects and purposes of this Act are to provide means whereby plans and related measures may be adopted—

- (a) to foster the awareness that all persons and organizations owning, occupying and developing land are under a duty to use that land with due regard for the wider interests both present and future of society as a whole;
- (b) to promote sustainable economic development in a healthy natural environment in accordance with the policies established under, and through the means provided by this Act;
- (c) to maintain and improve the quality of the physical environment within which patterns of human settlement are situated in Trinidad and Tobago without restricting the rights of individuals except to the extent necessary for the greater public interest;

- (d)* to achieve orderly, economical and beneficial development and use of land and patterns of human settlement guided by the policies established under this Act;
- (e)* to assist in the orderly, efficient and equitable planning, allocation and development of the resources of Trinidad and Tobago and of its various regions taking account of all relevant social, economic, ecological and cultural factors so as to ensure that the most efficient, equitable and environmentally sustainable use is made of land in the interests of all the people of Trinidad and Tobago;
- (f)* to provide for planning processes that are fair by making them open, accessible, timely and efficient;
- (g)* to provide for the orderly subdivision of land for residential as well as non-residential uses so as to facilitate timely and efficient provision of infrastructural works, and utility and other appropriate services; and to ensure that parcels are not divided into under-sized units unfit for rational exploitation;
- (h)* to encourage co-operation and co-ordination among various interests;
- (i)* to improve the aesthetic quality of the built environment and to protect, conserve and promote the diverse cultural heritage of Trinidad and Tobago; and
- (j)* to provide for the structural and fire safety of buildings and the safety, health and general welfare of those who occupy buildings or use land in proximity thereto.

(2) In the implementation, application and interpretation of this Act, a broad and purposive interpretation based on the objects and purposes set out in subsection (1) shall be applied.

PART II

GENERAL ADMINISTRATION

General
responsibility of
Minister

4. (1) The Minister is responsible for securing the objects set out in section 3 and for the due administration of this Act and, in the exercise of these powers and responsibilities, the Minister may do all things necessary.

(2) In addition to any other duties imposed on the Minister by this Act, the Minister shall be responsible for the framing and the general supervision of the implementation of comprehensive policies with respect to the use and development of all land in Trinidad and Tobago in accordance with the provisions of Parts III, IV, V and VI.

(3) Nothing in this section shall be construed as imposing upon the Minister, directly or indirectly, any form of duty or liability enforceable by proceedings before any Court.

Commission
established

5. (1) The National Physical Planning Commission of Trinidad and Tobago (hereinafter called “the Commission”) is hereby established.

(2) The Commission shall be a body corporate with perpetual succession, shall have a common seal which shall be officially and judicially noticed, and shall in its corporate name be capable of suing and of being sued.

(3) The constitution and procedure of the Commission shall be in accordance with the First Schedule.

6. (1) The principal functions of the Commission Functions of Commission
are—

- (a) to advise the Minister with respect to the framing of development policies referred to in subsection (2) of section 4 and, in accordance with Parts III, IV, V and VI, to secure consistency and continuity in the implementation of those development policies approved by the Minister;
- (b) to prepare a comprehensive physical development plan for Trinidad and Tobago (hereinafter referred to as the “National Physical Development Plan”);
- (c) to develop codes of appropriate building construction and land development standards and practices;
- (d) to ensure that all persons and agencies concerned comply with the requirements of the National Physical Development Plan, the codes, and the standards referred to in paragraphs (b) and (c);
- (e) to co-ordinate the land development approval process and grant all approvals required for commencement of construction or other initiation of—
 - (i) projects of national importance, or
 - (ii) unique, first-time or large-scale projects, where appropriate procedures, codes or standards have not been established;
- (f) to ensure that, wherever it is expedient, all functions relating to development control, issuance of building permits, or construction and occupancy approvals that can be discharged at local levels are devolved to local authorities as quickly and as transparently as possible;

(g) to consider and determine applications for permission for the development of land under Part IV in respect of any matter that is not subject to the jurisdiction of the Tobago House of Assembly, by virtue of the Tobago House of Assembly Act, or of any other planning authority, by virtue of any order made under section 19 of this Act, or that is not reserved for determination by the Minister in accordance with any directions given by the Minister under section 49 of this Act.

(2) For the purposes of subsection (1)*(a)*, advising on the framing of development policies and securing consistency in the implementation of such policies shall include—

- (a)* advising and assisting the Minister in the preparation of periodic Land Policy Statements to be laid in Parliament with the aim of keeping the policy framework embodied in the National Physical Development Plan current;
- (b)* providing advice and assistance, through the Minister, to Government and local authorities on policy proposals and legislation affecting the development and utilization of land and its resources;
- (c)* advising on the harmonization of policies and the co-ordination of functions of sectoral agencies insofar as those policies or functions may affect land management or land development;
- (d)* advising the Minister on the devolution of development control functions to local authorities and assisting in developing the capability of local authorities for the exercise of such functions;

- (e) advising the Minister on the appointment of planning authorities for the preparation of regional plans, urban plans, and local area plans;
- (f) working with and advising planning authorities and sectoral agencies on development programmes and planning efforts underway in Trinidad and Tobago;
- (g) co-ordinating and integrating the functional planning, approval and plan implementation functions of sectoral agencies exercising authority with respect to physical development, transportation, maintenance of infrastructure and land-resource management and utilization and developing the information necessary to undertake such sectoral planning.

(3) For the purposes of paragraph (d) of subsection (1), ensuring compliance with the requirements of the development plan and the codes and standards referred to in that paragraph shall include—

- (a) assisting or where necessary preparing such regional and local plans as may be requisite;
- (b) assessing the planning needs of planning authorities and local authorities, providing assistance to meet such needs, and ensuring reasonable co-ordination between plans adopted in their respective areas;
- (c) consulting with relevant professional associations and, subject to the approval of the Minister and in conjunction with those associations, developing programmes on issues related to education, continued professional training and human resource development for implementing the provisions and achieving the purposes of this Act;

- (d) monitoring the operation of the overall development approval process and reporting thereon to the Minister; analyzing data and publishing findings with respect to the development approval process and making recommendations to the Minister for improving the working of said process;
- (e) establishing and managing programmes of public education and information about the objects and purposes of physical planning and the provisions of this Act and, to that end, publishing information in such manner as appears to the Commission to be most conducive to meeting the purposes of public education and the dissemination of information concerning physical planning and land use and development issues; and the Commission may do any of the things referred to in this paragraph either alone or in association with any person, authority or body;
- (f) publishing a journal, describing the progress of development and special interest area plans, and describing projects for which applications to develop land are under consideration or have been granted, and such a journal may be directed to the public at large or to persons particularly interested in planning, development and building in Trinidad and Tobago.

Duties of
Commission

7. (1) The Commission shall prepare and submit to the Minister for adoption and implementation the National Physical Development Plan for the purposes of section 23(1)(a).

(2) After the National Physical Development Plan or any element or portion thereof has been adopted in conformity with this Act, the Commission shall—

- (a) prepare and submit to the Minister recommendations for all amendments to the National Physical Development plan or any element or portion thereof;
- (b) submit for the approval of the Minister appropriate land development regulations and thereafter submit for the approval of the Minister all necessary amendments to such land development regulations in order to ensure harmony and consistency with the National Physical Development Plan;
- (c) review on land development matters not falling within the prescribed planning framework; and, without restricting the generality of the foregoing, such matters may include major programmes and projects, unique and unusual proposals, and large scale or pilot projects presented for consideration;
- (d) submit annually to the Minister, not later than three months before the end of the financial year March 31, a list of recommended capital improvements, which in the opinion of the Commission are necessary or desirable for implementing the National Physical Development Plan or any element or portion thereof during the forthcoming five-year period;
- (e) monitor and oversee the effectiveness and status of the National Physical Development Plan and recommend annually to the Minister such changes in or amendments to the plan as may be desired or required;

- (f)* prepare periodic evaluation and appraisal reports on the National Physical Development Plan, which shall be sent to the Minister at least once every five years after the adoption of said plan or any element or portion thereof;
- (g)* make investigations, maps and reports and make recommendations relating to planning and development in Trinidad and Tobago (including programmes for development and for the carrying out of public works and improvements and for their financing) as may be desirable;
- (h)* conduct public hearings on plans or proposals upon the direction of the Minister.

(3) The Commission shall be responsible to and act as an advisory body to the Minister and shall exercise such additional powers as may be prescribed by regulations or written directions of the Minister.

(4) In the performance of its functions and in the exercise of its powers, the Commission shall act in accordance with any special or general directions given by the Minister.

(5) For purposes of this section, “land development regulations” includes: land use, subdivision and development approval, building and construction, environmental, and other regulations controlling, regulating, or affecting the use or development of land.

Remuneration

8. (1) The Chairman, Vice-Chairman and other members of the Commission shall be paid such remuneration and allowances as the President may determine.

9. (1) It is the duty of a member who is in any way ^{Conflicts of interest} interested in a contract, proposed contract, or development proposal under consideration by the Commission, to declare the nature of his interest at the first meeting of the Commission at which it is practicable for him to do so.

(2) A disclosure under subsection (1) shall be recorded in the Minutes of the Commission or Committee and, after the disclosure, unless the Commission otherwise directs, the member of the Commission making the disclosure shall not be present or take part in deliberations when the matter is being discussed by the Commission or Committee.

10. (1) The Commission may appoint from among its ^{Committees and delegation of functions} members a committee for any of the purposes of this Act, which, in the opinion of the Commission would be better regulated and managed by means of a committee and may with the approval of the Minister delegate to the committee with or without restrictions or conditions as the Commission thinks, any of their powers under this Act.

(2) A committee appointed under this section shall consist of such number of persons as the Commission may think fit.

(3) The Commission may, with the approval of the Minister, by written instrument, delegate such of its functions under this Act as it considers appropriate to—

- (a) the Director; or
- (b) the Director and a member of the Commission.

(4) Where, under subsection (3)(b), a function of the Commission is delegated to the Director and a member of the Commission, that function shall not be exercised except jointly by the Director and that member.

(5) A delegation under subsection (1) or subsection (3) is revocable at will and does not prevent the exercise by the Commission of any power or function so delegated.

Appointment of
Standing
Committees

11. The Commission shall appoint Standing Committees to deal with the following matters:

- (a) the National Physical Development Plan;
- (b) codes and standards;
- (c) development control;
- (d) national land-use policies and long term goals.

Appointment of
Officers and Staff

12. (1) The Commission shall appoint a Director of Planning (hereinafter referred to as “the Director”) a Chief Building Officer, a Secretary, a Legal Officer and such other officers and employees as appear necessary for the proper exercise of its functions.

(2) All procedures for selection of persons for appointment to the staff of the Commission, and guidelines for remuneration and other terms and conditions of employment shall be subject to the approval of the Minister.

(3) The Commission may provide out of its funds and make such arrangements for the training of any of its officers or employees as it may consider expedient for the efficient discharge of its function.

(4) The Commission with the approval of the Minister may make by-laws relating to the duties of its members, officers, other personnel and agents.

The Director

13. (1) It is the duty of the Director to attend all meetings of the Commission.

(2) The Director shall—

- (a) advise and assist the Commission in all matters relating to planning and development of land and perform such other duties relating to the exercise of the functions of the Commission as the Commission may assign to him;

- (b) be in direct charge of all physical planning personnel directly serving the Commission;
- (c) investigate and make recommendations to the Commission with respect to all proposed changes in designated land use, land-use or other regulations, proposed classification of uses, subdivisions, compulsory acquisitions of land, land development proposals, enforcement of planning control, conservation, environmental protection and planning matters generally;
- (d) be in direct charge of the production of plans, planning programs, reports and technical and administrative procedures required in connection with planning and development control.

14. (1) The Commission shall appoint a civil engineer or architect to be Chief Building Officer and such examiners of plans and inspectors as are necessary for the purposes of the administration and enforcement of Part V. The Chief Building Officer and Inspectorate

(2) The Chief Building Officer shall be responsible for the enforcement of all building and construction related codes, for the direction of building inspectional procedures, the issuance of permits, the monitoring of all construction approval procedures and the submission of periodic reports to the Commission on the operation of same.

15. (1) An officer in the public service may, with the approval of the Minister, be transferred to the service of the Commission, and upon such transfer shall become a member of the Pension Scheme referred to in section 16, and, where such officer's transfer becomes effective before the establishment of such Scheme, he shall Transfer and secondment of officers

become a member of the Scheme within one year of its establishment; and an officer in the service of the Commission may be transferred to the public service.

(2) A transfer described in subsection (1) shall be on such terms as may be acceptable to the Minister, the Commission and the officer concerned and the pension or superannuation rights accruing to the officer at the time of his transfer shall be preserved.

(3) Subject to subsection (4), the Minister may, with the approval of the appropriate Service Commission, the Commission and the officer concerned, make appropriate arrangements for the transfer on secondment of any officer in the public service to the Commission or from the service of the Commission to the public service.

(4) Where a transfer on secondment contemplated by subsection (3) is effected, the President or the Commission, as the case may require, shall make such arrangements as may be necessary to preserve the rights of the officer so transferred to any pension, gratuity, or other allowance for which he would have been eligible had he remained in the public service or in the service of the Commission, as the case may be.

Establishment of
Pension Scheme

16. (1) The Commission shall, within a period of three years of the commencement of this Act, with the approval of the Minister, provide for and establish a Pension Scheme for the benefit of its officers and employees.

(2) Without prejudice to the generality of subsection (1), the Pension Scheme may enable the Commission to—

(a) grant gratuities, pensions or superannuation allowances to its officers and employees, or to their widows, families or dependants;

- (b) establish contributory superannuation schemes, and establish and contribute to superannuation funds for the benefit of its officers and employees;
- (c) enter into and carry into effect agreements with any insurance company or other association or company for securing to any such officer or employee, or his widow, family or dependent such gratuities, pensions or allowances as are by this paragraph authorized to be granted.

17. (1) Within one year of the Commencement of this Act, the Commission shall consult with local authorities and prepare for the approval of the Minister a report setting out a programme for devolving to local authorities the functions of determining appropriate categories of—

- (a) development control matters as provided for in Part IV; and
- (b) matters relating to—
 - (i) the issue of building and demolition permits;
 - (ii) the safety of buildings;
 - (iii) the inspection and approval of work performed on buildings undergoing construction and the issue of occupancy certificates therefor; and
 - (iv) the inspection and approval of the installation of infrastructure and services in land-undergoing development,

in accordance with any provisions made therefor under Part V.

(2) The Minister may approve such report with or without amendment and, in accordance with the provisions of section 19, shall make an order appointing the several local authorities to be planning authorities to discharge such functions and exercise such powers as are specified in the order.

(3) An order referred to in subsection (2) may appoint two or more local authorities to be one joint-planning authority for the discharge of such functions as may be specified in the order.

Appointments to
prepare development
plans

18. (1) The Minister may, after consultation with the Commission, by instrument in writing and subject to such conditions, directions, reservations and restrictions as the Minister considers appropriate, appoint for the purpose of preparing a development plan, other than a development plan for all of Trinidad and Tobago or for the island of Tobago—

(a) a local authority; or

(b) an authority appointed by the Minister for the purpose of preparing a development plan,

(such local authority or authority appointed by the Minister being referred to herein as a “planning authority.”).

(2) Without restricting the generality of subsection (1), the matters which may be made the subject of conditions, directions, reservations and restrictions may include any of those matters mentioned at section 25(1).

(3) A primary focus of any local development plan shall be the detailing, co-ordination, and implementation of the National Physical Development Plan at the local level.

19. (1) Subject to subsection (6), the Minister shall Appointment to determine applications for permission after consultation with the Commission, by order and subject to such conditions, directions, reservations and restrictions as the Minister deems appropriate, appoint a local authority or any other body or authority as a planning authority to—

- (a) receive applications for permission to develop land, either generally or in respect of different developments or different classes of development;
- (b) grant, with or without conditions, permission to develop land pursuant to applications therefor;
- (c) refuse applications for permission to develop land; and
- (d) return incomplete and undetermined applications to applicants.

(2) Without restricting the generality of subsection (1), in any order of appointment made pursuant to that subsection, the Minister may make provision for the transfer, to the planning authority appointed, any liability to pay compensation under this Act in respect of anything done by the planning authority in the exercise of the authority to it by such order.

(3) Where the Minister has appointed a planning authority in accordance with this section, the Minister may direct that in respect of any particular application or class of applications for permission to develop land, such planning authority shall refer any such applications to the Minister or to any other authority as the Minister may direct, for consideration by the Minister or that other authority, and the Minister may thereafter—

- (a) determine such application; or
- (b) refer the application for determination by such authority as the Minister deems fit.

(4) All determinations made by virtue of such appointment shall be in accordance with the provisions of section 40.

(5) Any person aggrieved by any order, notice, decision or other determination made by the Commission or a planning authority exercising a duty or responsibility under this section may appeal against such determination to the Board under sections 94 and 95, and notice of such appeal shall be served on the planning authority and the Commission, which shall both be entitled to be heard by the Board.

Delegation of
planning functions to
committees or
officers of local
authorities

20. (1) A local authority that has been appointed a planning authority may delegate all or any of its functions under Part IV to a committee, a sub-committee or an officer of the authority.

(2) Where by this section any functions of a local authority have been delegated to a committee, then, unless the local authority otherwise directs, the committee may delegate any of those functions to a sub-committee or an officer of the authority and, where by virtue of this section any functions of a local authority have been delegated to a sub-committee of the authority, then, unless the local authority or the committee otherwise directs, the sub-committee may delegate any of those functions to an officer of the authority.

(3) Delegation by a local authority or committee under this section of any functions to a committee, sub-committee, or officer shall not prevent the authority or committee by whom the delegation was made from exercising those functions.

(4) Two or more local authorities may discharge any of their functions under Part IV jointly and, where arrangements are in force for them to do so, they may also arrange for the discharge of those functions by a joint committee of theirs or by an officer of one of them.

(5) A delegation of functions under Part IV made by a local authority, committee, joint committee, or sub-committee to an officer of a local authority—

- (a) shall be made to the officer by name;
- (b) may be made without restrictions or conditions;
- (c) may be withdrawn at any time by the delegating authority (either generally or in respect of a particular application), without prejudice to anything previously done by the officer thereunder.

(6) Where a local authority has under this section delegated to an officer of the authority the function of determining applications, and the officer so requests in the case of any application specified by him, the delegating authority shall itself, instead of him, determine the application.

(7) Where any functions have under this section been delegated to an officer of a local authority, any determination by him of an application to which the delegation applies shall, if it is notified in writing to the applicant, be treated for all purposes as a determination of the delegating authority.

21. Nothing in this Act prevents the Commission or any other person exercising authority under this Act from advising or informing any person on any matter concerning the implementation of the Act or any decision that may be taken under the Act, but no such advice or information so given shall in any way bind the Minister, the Commission or any such person giving such advice or information either to determine any matter or to exercise any powers under the Act in accordance with such advice or information.

Freedom to provide information and advice

22. (1) No action or other proceeding for damages lies or shall be instituted against the Minister, any member of the Commission or any member of a

Protection from personal liability

planning authority, the Chief Building Officer or any inspector or anyone acting under the authority of any of them for any act done or power exercised in good faith in the execution or intended execution of any duty imposed by this Act or for any alleged neglect or default in the execution in good faith of such duty.

(2) In respect of a tort committed by an inspector or the Chief Building Officer, subsection (1) does not relieve the State or any planning authority from any liability to which the State or such planning authority would otherwise be subject, and the State or the planning authority is liable for any such tort as if subsection (1) were not enacted.

(3) Nothing in this section relieves the State or any planning authority from liability to pay such compensation as may be determined under section 50 or Part VII.

PART III

DEVELOPMENT PLANS

Commission to
prepare National
Physical
Development Plan
and other documents

23. (1) The Commission—

(a) shall prepare and thereafter keep under review a development plan for the whole of Trinidad and Tobago which shall—

- (i) be consistent with the social, economic, regional, environmental and cultural development policies of Government;
- (ii) provide the policy framework within which regional and local planning can be undertaken;
- (iii) comprehensively draw together and link the functional plans prepared by individual sectoral agencies; and

(iv) have as its primary focus—

- (A) issues of national policy and the co-ordination of functions;
- (B) the identifying of problems and opportunities created by demographic change and industrial and other activity; and
- (C) the adoption of strategies for exploiting resources and opportunities and minimizing environmental land-use problems resulting from human activity; and

(b) may prepare or cause to be prepared and thereafter keep under review such other development plans for such regions and areas and on such subject matters as would assist in the efficient and equitable planning and management of land in Trinidad and Tobago.

(2) Until such time as the resolution of Parliament approving the National Physical Development Plan which became operative on 15th August 1984 is rescinded or superseded, the National Physical Development Plan—Trinidad and Tobago: Volumes I and II shall be deemed to be the development plan referred to in subsection (1)(a).

(3) The Commission shall ensure that development plans are reviewed at least once in every five years, and recommendations for any modification thereto shall be deemed to be a proposed development plan to which this Part applies, and if the Minister so

directs, shall be deemed to be a modification to which the expedited procedure under section 30(3) applies.

(4) For the purposes of this Act, a comprehensive physical plan for the whole of the Island of Tobago shall be deemed to be a regional plan within the meaning of this section.

Function and
content of
development plans

24. (1) A development plan shall contain goals, objectives and policies established primarily to manage and guide change in the social, economic and physical environment of the area for which the development plan has been made.

(2) A development plan shall include—

- (a) a review of the physical, social, economic, service and environmental characteristics of the area and the available social services;
- (b) a description of those matters affecting or providing opportunities for the development and use of land;
- (c) a land-use plan, designating—
 - (i) areas of land for agricultural forestry, residential, industrial, institutional, recreational (including national parks), retail, office, tourist or commercial uses or any other classes of uses specified in the plan;
 - (ii) conservation, environmentally sensitive and special interest areas;
 - (iii) areas where development may be premature or unacceptable having regard to environmental hazards or lack of water or other services or facilities; and

- (iv) buffer zones where no construction will be permitted due to vulnerability of the zone to chemical spills, escape of noxious gases, accidents, floods or other disasters;
 - (d) such maps, drawings and other graphic representations, and such data, proposals, descriptive matter and other information as may be necessary to illustrate, explain and provide a reasoned justification for the conclusions of the development plan, prepared with such degree of particularity as may be appropriate to the part or parts of Trinidad and Tobago covered by, and to the particular subject matter and nature of the development plan;
 - (e) recommendations for the sequencing or phasing of development within the plan;
 - (f) in the case of a local or a sub-area development plan, matters pertaining to particular local conditions addressed with a greater degree of detail; and
 - (g) such other matters as the Minister may prescribe, or specify by written guidance.
- (3) A development plan may include—
- (a) a description of proposed measures and programmes for the attainment of the objectives of the plan and estimates of the resources needed and likely to be available to implement those measures and programmes;
 - (b) an assessment of the quantity and forms of housing required and estimated to be required in the future by various socio-economic groups among the population of

- Trinidad and Tobago, or by the part of such population living or expected to live in the area described in the development plan;
- (c) a transportation plan, showing the generalized location of proposed major roads and other transportation facilities;
 - (d) a servicing plan, showing the generalized location of areas which it is proposed to service with water, waste-water, electrical, gas, telephone or other services; and
 - (e) an examination of the likely environmental effects of the proposals.

Conditions governing
appointment to
prepare development
plan

25. (1) Where the Minister appoints a planning authority to prepare a development plan under section 18, the matters which may be made the subject of conditions, directions, reservations and restrictions may include—

- (a) the area for which the development plan is to be prepared;
- (b) the subject matter of the development plan;
- (c) the major alternative development strategies to be considered and the means to be used for evaluating the efficacy of such strategies;
- (d) identification of the stages in the plan preparation process at which interim reports will be provided;
- (e) the time within which the development plan shall be prepared;
- (f) any policies to be taken into account in the preparation of the development plan;
- (g) the persons and authorities who shall be consulted in the preparation of the development plan; and
- (h) the matters that shall not be included in the development plan.

(2) On giving not less than fourteen days written notice to a planning authority appointed under section 18 the Minister may—

- (a) require that the preparation of the development plan cease for such period as is specified in the notice;
- (b) revoke or vary the powers granted by the planning authority either in whole or in part;
- (c) resume the power to prepare a development plan and continue or recommence the preparation of that development plan following its suspension pursuant to paragraph (a);
- (d) add to, remove from, or reconstitute the authority referred to in section 18(1)(b);
- (e) require two or more planning authorities to prepare a joint development plan of a kind specified in the notice; or
- (f) require two or more planning authorities which are preparing a joint development plan to cease from doing so and to prepare separate development plans of a kind specified in the notice.

26. (1) Insofar as it is appropriate to do so, anyone ^{Preparation of} authorized to prepare a development plan, in the ^{development plans} course of such preparation, shall—

- (a) at the outset, publish in a newspaper of general circulation, an announcement that the preparation of a development plan is about to begin, and indicate—
 - (i) the area being considered;
 - (ii) that representations from the public are invited; and

- (iii) that further information can be obtained on an ongoing basis from persons identified in the announcement;
- (b) collect and analyze relevant information;
- (c) consult with such persons, bodies and authorities as—
 - (i) are likely to be affected;
 - (ii) wish to make representations; and
 - (iii) constitute or represent the local residents; and
- (d) set out clearly and fully all policies, proposals and programmes including alternatives and reasons therefore which it is proposed to include in the development plan;
- (e) publish the materials referred to in paragraphs (b) and (d) in a manner calculated to bring them to the attention of persons likely to be affected by the development plan; and
- (f) prepare a proposed development plan and deliver it together with a report on the consultations held under paragraph (c) to the Commission and to any planning authority appointed pursuant to section 18(1) for the purpose of preparing that development plan.

(2) Each agency which receives a request for information or comment in connection with the preparation of a development plan shall, as soon as possible, provide the information or comment requested and, in preparing the development plan regard shall be had for the comments provided by agencies.

(3) Where the proposed development plan was prepared by a planning authority appointed under section 18(1), that authority shall consider the proposed

plan and may adopt it, and shall, in any event, forward any comments of the authority on the proposed development plan to the Commission within three months of its receipt.

(4) Within three months of the receipt of a proposed development plan and a report on the consultations held and, in the case of a development plan referred to in subsection (2), the expiry of the time required for receiving the comments of the authority, the Commission shall give written notice of—

(a) provisional agreement to the proposed development plan; or

(b) directions that within six months or such lesser time as the Commission may specify, any or all of the following measures shall be taken—

(i) the undertaking of further work on the proposed development plan of a kind specified in the directions;

(ii) the deletion of matters specified in the directions from the proposed development plan;

(iii) the making of amendments or additions specified in the directions to the proposed development plan; and

(iv) the undertaking of further consultation of a kind specified in the directions.

(5) Where the Commission is satisfied that any direction issued under subsection (3) has been complied with, and that any appropriate amendments or additions have been made to the proposed development plan, the Commission may by Order published in the *Gazette* give notice of provisional agreement to the

proposed development plan, and it shall be known as a “provisional development plan”.

(6) A provisional development plan shall be made available to the public and shall be taken into account as a material consideration in any decision taken under this Act in respect of which it is provided that material considerations shall be taken into account.

(7) For greater certainty, it is hereby declared that the procedural requirements of this Part are intended to secure as primary objectives not only that development plans are technically sound and that the process of their preparation is transparent and participatory, but also that the completion of plans is timely so that the plans become available to guide development; therefore, notwithstanding the provisions of this section, the Minister or the Commission may, in accordance with section 29, provisionally agree, certify or approve (as the case may be) a proposed development plan, if, on the whole, the Minister or the Commission is satisfied that—

- (a) all such primary objectives have been attained in the proposed development plan or will be attained through the approval, certification or the granting of provisional agreement to such plan; and
- (b) such primary objectives are unlikely to be attained within a reasonable period unless the proposed development plan is so approved, certified or granted provisional agreement.

Designation of land
subject to compulsory
purchase for
planning purposes

27. (1) For purposes of this section—
“public purposes” means, in relation to the use of land, any use by the State, any central or local authority, or any central or local board or corporation of any kind for the common good of the inhabitants of

Trinidad and Tobago, or any of them, and includes, without limitation, uses for roads, public docks, airports and other transportation facilities, public utilities of any kind, facilities for any aspect of the administration of justice, public schools, colleges and universities, public hospitals and other medical facilities, public buildings including buildings in which employees of any level of government perform their duties and public recreational facilities of any kind;

“planning purposes” means, in relation to the use of land, a use that is not for “public purposes” as that expression is defined in this subsection but which has been found to be of sufficient economic, social, or other benefit to the inhabitants of Trinidad and Tobago, or any of them, as may warrant the exercise, of compulsory acquisition powers in order to achieve or maintain such benefit;

“designated land” means land which has been designated as being subject to compulsory acquisition for planning purposes in a provisional or approved development plan or modification thereof.

(2) Where, in the opinion of the Minister, the objectives of any development plan, including any special plan, require that any land be subject to compulsory acquisition for planning purposes, the Minister may instruct the Commission to prepare the plan, or a modification to the plan, designating the land as subject to such compulsory acquisition and describing—

- (a) the intended planning objectives;
- (b) the uses to which the designated land will be put;

(c) the programmes or means to be used after the acquisition of the designated land has taken place in order to achieve the proposed uses; and

(d) the reasons why compulsory acquisition is necessary to achieve the planning objectives and the proposed uses.

(3) Before indicating provisional agreement to a development plan containing a designation of compulsory acquisition for planning purposes, the Minister shall—

(a) publish a notice advising that the land is proposed to be designated as being subject to compulsory acquisition for planning purposes, and setting out the information mentioned in subsections (2)(a) to (d) in the *Gazette* and in a daily newspaper, and in such other manner as may be calculated to bring the plan to the attention of persons likely to be affected by it; and

(b) give written notice of the proposed designation to the owners and any known mortgagees or other encumbrances of such land.

(4) Any authority or other person desiring to make objections, representations or comments in relation to the proposed compulsory acquisition for planning purposes shall do so within two months of the publication referred to in subsection (3)(a) or the giving of notice referred to in subsection (3)(b), whichever is the later.

(5) After receiving any objections, representations or comments pursuant to subsection (4), the Minister may give provisional agreement to such proposed development plan or modification, and the Commission may thereafter, pursuant to section 29,

proceed to make an Order certifying that the development plan conforms with the National Physical Development Plan and that, in its preparation, the requirements of this Act had been satisfied.

(6) Any designated land in any provisional or approved development plan may be acquired as if for a public purpose, and if the owner does not enter into an agreement concerning such acquisition then such land may be acquired pursuant to the Land Acquisition Act.

(7) Where any designated land has not been acquired by the Minister or other public authority at the expiration of five years from the date on which the plan was approved or was deemed to have been approved by Parliament, any owner of any interest in the designated land may serve notice on the Minister requiring either that—

(a) such interest be acquired; or

(b) the development plan be amended to delete the designated land therefrom,

and if within six months after the service of such notice, such interest has not been so acquired, the development plan shall have effect as if the designated land was not designated as subject to compulsory acquisition.

(8) Nothing in this section prevents any land not designated for compulsory acquisition from being acquired by the State or any authority under any power contained in any other Act.

28. (1) Where a proposed development plan adopted by a local authority has been given provisional agreement by the Commission pursuant to section 26(4) and, where section 27 applies, by the Minister pursuant to section 27(5), it shall be a provisional development plan for the municipality or local area for which it has been prepared, and the Commission shall proceed in accordance with section 29.

Provisional
agreement to
proposed
development plan of
local authority

(2) Where the Commission is not prepared to give provisional agreement to a development plan pursuant to subsection (1), the Commission may direct the local authority to seek the advice of such person or persons as the Commission deems suitable on a form of proposed development plan which the local authority could adopt and on which the Commission would be prepared to give provisional agreement, and such persons shall solicit the views of the local authority and the Commission as well as any other interested person and report to the Commission.

(3) Upon receiving a report from such persons recommending a proposed development plan under this section, the Commission may give provisional agreement to such proposed development plan and proceed in accordance with section 29.

(4) Where the Commission gives provisional agreement to a proposed development plan under this section it shall do so by Order published in the *Gazette*.

Certifying of
provisional
development plans

29. (1) Before certifying any provisional development plan, the Commission shall provide an opportunity for any authority, person or body desiring to make objections, representations or comments in relation to the plan to do so.

(2) Notice shall be published in the *Gazette* and in at least one daily newspaper, that the Commission proposes to certify the provisional development plan and that any interested person desiring to make objections, representations or comments in relation to the plan may do so in writing to the Commission.

(3) Such notice shall also specify—

- (a) the place or places where copies of the provisional development plan may be obtained or inspected; and
- (b) the date by which any such objections, representations or comments shall be made, which shall be not less than six weeks after the date of the publication of the notice.

(4) Where any objections, representations or comments are received in relation to the provisional development plan, the Commission may make provision for a public inquiry into the plan and may appoint such person or persons as the Commission deems suitable as inquiry officers to hold such public inquiry and to submit a report thereon.

(5) In the event that the Commission has appointed one or more inquiry officers pursuant to subsection (4), notice of the inquiry shall be given to those making objections, representations or comments and shall be published in at least one daily newspaper.

(6) The notice referred to in subsection (5) shall specify—

- (a) the date and place of the public inquiry; and
- (b) that any interested person may be heard at such inquiry.

(7) After receiving any objections, representations or objections and the report on an inquiry the Commission may—

- (a) certify the provisional development plan with or without amendment; or
- (b) rescind provisional agreement to the development plan, where such agreement had been granted by the Commission, and not certify it.

(8) Where, pursuant to subsection (7)(a), the Commission has certified a development plan, the Commission shall—

- (a) publish a notice in the *Gazette* notifying that the Commission has certified the provisional development plan;
- (b) prepare a summary of—
 - (i) the objections, representations or comments received in relation to the plan; or

(ii) the report on the public inquiry, together with the comments and recommendations of the Commission, where any public inquiry has been held; and

(c) submit such summary, comments and recommendations to the Minister together with the development plan.

(9) The Minister may by Order approve a development plan submitted to him under subsection (8).

(10) Where the Minister is disposed not to accept any of the recommendations of the Commission, he shall send a written report of his reasons to the Commission and shall not proceed to reject the recommendations until he has received and considered any reply from the Commission which shall be submitted to the Minister not more than one month after the receipt of the report from the Minister.

(11) Any Order of the Minister approving a development plan for Trinidad and Tobago shall be subject to affirmative resolution of Parliament, and any Order approving any other development plan shall be subject to negative resolution of Parliament.

(12) Any approved development plan for Trinidad and Tobago which, when submitted to Parliament, is not approved by an affirmative resolution, and any other approved development plan which is the subject of a negative resolution of Parliament shall cease to be a provisional development plan and shall not be taken into account in any decision under this Act.

(13) Notice of an approved development plan which has been approved or is deemed to have been approved by Parliament shall be published in the *Gazette* and in at least one daily newspaper and copies of any such approved plan shall be available for inspection by and sale to the public.

30. (1) In any case where the Minister thinks it ^{Withdrawal or modification of development plans} desirable or expedient to do so, the Minister may—

- (a) cause to be prepared or direct the Commission or a planning authority to prepare a modification to any development plan; or
- (b) propose to rescind the whole or any part of any development plan, and after providing an opportunity for any authority or person desiring to make objections, representations or comments in relation to the proposed rescission, the Minister may modify the proposal and may by Order rescind the whole or any part of the development plan in accordance with such proposal, and such order shall—
 - (i) in the case of an approved development plan for the whole of Trinidad and Tobago, be subject to affirmative resolution of Parliament;
 - (ii) in the case of any approved development plan other than the one specified in subparagraph (i), be subject to negative resolution of Parliament; and
 - (iii) in the case of any provisional development plan, constitute the rescission or partial rescission of such provisional development plan.

(2) The Minister may direct that in any case where the proposed modification appears to be minor, an expedited procedure in accordance with subsection (3) shall apply to the preparation of a modification to a development plan.

(3) Under the expedited procedure—

(a) anyone so authorized or directed shall—

- (i) publish the announcement specified in section 26(1)(a);
- (ii) prepare a draft of the proposed modification;
- (iii) consult with sectoral agencies, local authorities, and persons likely to be affected or who wish to make representations; and
- (iv) submit the proposed modification and a report on the consultation held under subparagraph (iii) to the Commission; and

(b) the Commission shall consider the proposed modification and the report on the consultations and may give provisional agreement to the proposed modification with or without any further modification.

(4) The provisions of section 29 as they apply to the certification and approval of a provisional development plan shall apply *mutatis mutandis* to the certification and approval of a modification to a development plan to which provisional agreement has been given under this section.

Status of approved
development plans

31. An approved development plan shall be the principal consideration in all decisions taken under this Act by the Minister, the Commission, any planning authority and all other authorities having control or jurisdiction over land in respect of any proposal to develop that land.

Power to publish
policy statements

32. (1) The Minister shall publish such statements of policy and other written, graphic or other illustrative materials as may, in the opinion of the Minister, be conducive to the discharge of functions under this Act and shall carry out such consultations as the Minister thinks desirable and proper in connection with such statements and other materials.

(2) Where, under this Act, it is provided that regard shall be had to material considerations—

(a) any statement of policy published pursuant to subsection (1); and

(b) any other material published pursuant to subsection (1) and certified by the Minister,

shall, insofar as it is relevant, be taken into account as a material consideration in any decision made.

(3) Where a statement of policy alters the effect of any approved development order, or regulation made under this Act, such statement shall, as soon as practicable, be published in the *Gazette* and in at least one daily newspaper and be laid before both houses of Parliament with a written statement indicating the nature and extent of such alteration and the reasons therefor.

(4) Where a proposed statement of policy would alter the effect of any approved development plan, the Minister shall publish in the *Gazette* and in at least one daily newspaper notice of the proposed statement of policy stating either the terms or substance of the proposed change or stating the subjects and nature of the changes proposed and the issues involved and inviting that comments or representations be made to the Commission either in writing or orally at a hearing to be held not less than 30 days after the date of publication of the notice at a time and place stated in the notice.

(5) The Commission shall submit to the Minister a report on the hearing and any written comments or representations received as well as its own recommendations respecting the proposed statement of policy which report and recommendations shall be laid in both Houses of Parliament together with the statement of policy when made by the Minister.

(6) Every statement of policy that alters an approved development plan, development order, or regulation made under this Act shall be subject to negative resolution of Parliament.

Commission to make plans and reports available

33. The Commission shall make all proposed or provisional development plans and amendments, and all reports referred to in this Part, accessible for inspection by the public in one or more public institutions may be notified by the Commission and shall provide copies of such documents upon request and payment of the prescribed fees.

PART IV

DEVELOPMENT CONTROL

Permission required for development of land

34. Except as otherwise expressly provided in this Act, permission to develop land is required under this Part for all development of land before such development is commenced.

Meaning of "development"

35. (1) In this Act, except where the context otherwise requires, the expression "development" means—

- (a) carrying out building, engineering, mining or other operations in, on, over or under any land, whether or not covered by water, and whether or not used for agriculture, forestry, or aquaculture;
- (b) making any material change in the use of any building or land; and
- (c) subdividing any land.

(2) Notwithstanding subsection (1), the following operations or uses of land shall, for the purposes of this Act, be deemed not to be development of land—

- (a) carrying out works for the maintenance, improvement, or other alteration of any building, if the works affect only the interior of the building or do not materially affect the external appearance of the building and do not involve a material change in use;

- (b) any highway authority carrying out any works within the boundaries of a road required for the maintenance or improvement of the road provided that the level of the road remains unchanged;
- (c) any local authority or statutory undertakers carrying out any works for the purpose of inspecting, repairing or renewing any sewers, water mains, pipes, cables or other apparatus, including breaking open any street or other land for that purpose;
- (d) the use of any buildings or other land within the curtilage of a dwelling-house for any purpose incidental to the enjoyment of the dwelling-house as such, except where a special interest area order has been made;
- (e) subject to such exemptions or limitations as the Minister may prescribe by order, the use of any land for the purposes of agriculture, forestry or aqua culture; and
- (f) a change in the use of any building or land from a use specified in an order made by the Minister under this Part to another use within the same class of uses.

(3) Nothing in subsection (2)(a) and (d) affects any requirement which is otherwise imposed with respect to prohibiting or controlling the alteration, or requiring the preservation of listed buildings or buildings in areas of special interest.

(4) Subject to any regulations made under this Act relating to the control of advertisements, and except for signage used to identify a building and its occupancy, the use of any external part of a building for the display of advertisements shall be deemed to involve a material change in use of that part of the building.

36. (1) The Minister shall, by Order, provide for the grant of permission for the development of land under this Part, and such permission may be granted—

- (a) by the Order itself, with respect to—
 - (i) any development specified in the Order;
 - (ii) any class of development specified in the Order; or
 - (iii) any land specified in the Order;
- (b) by the Commission or a planning authority, upon an application for such permission made to the Commission or the planning authority in accordance with the Order; or
- (c) by the Minister, where any application provided for in paragraph (b) of this subsection is referred to the Minister pursuant to the provisions of section 49.

(2) Permission granted by a development order pursuant to subsection (1)(a) may be unconditional or subject to such conditions and limitations as may be specified in the Order.

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

- (a) where permission is granted for the erection, extension or alteration of any building, require the approval of the Commission or a planning authority with respect to the design or external appearance of such building;
- (b) where permission is granted for development of any specified class, exclude development in any particular area or exclude any particular project; or
- (c) impose any condition or requirement provided for in section 41.

(4) For the purpose of enabling development to be carried out in accordance with permission granted under this Part or for the purpose of otherwise promoting development in accordance with a development plan, a development order may direct that—

- (a) any written law in force before the commencement of this Act; or
- (b) any regulation, order or by-law made or adopted after the commencement of this Act, under any Act referred to in paragraph (a),

shall not apply to any development specified in the development order, or shall only apply subject to such modifications and through such administrative procedures as may be specified in the Order.

(5) Every development order shall be subject to negative resolution of Parliament.

37. (1) An application for permission to develop land shall be made in such form as may be prescribed and shall contain—

- (a) information with respect to the exact location of the land;
- (b) the name and address of the owner of the land;
- (c) information with respect to the existing and the proposed future uses of the land;
- (d) information with respect to the existing uses of all adjoining land;
- (e) information with respect to the availability and nature of any water supply, sewerage service and other utility service; and
- (f) information with respect to all existing and proposed, natural and artificial features including, without limitation, buildings or other structures, railways, highways, watercourses, drainage ditches, wetlands and wooded areas or environmental hazards on, within or adjacent to the land.

(2) An application shall be accompanied by—

- (a) such plans, drawings, surveys, maps, diagrams, environmental impact statements and other information and fees as the regulations prescribe; and
- (b) any certificate that may be required pursuant to section 38.

(3) The Commission or planning authority may require the applicant to furnish or pay for such further surveys, consultations, studies, reports or information, prepared by persons whose qualifications have been approved by the governing body of a recognized profession in Trinidad and Tobago, as may be prescribed, to consider the application.

(4) The materials required pursuant to subsections (2) and (3) shall be sufficient to show—

- (a) the location of all buildings and structures, and all facilities or works to be provided in conjunction therewith; and
- (b) the plan, elevation and cross-section views for each building proposed to be erected, sufficient to display—
 - (i) the massing and conceptual design of each proposed building;
 - (ii) the relationship of each proposed building to adjacent buildings, streets and exterior areas to which the public has access; and
 - (iii) the provision of any interior walkways, stairs, elevators and escalators to which the public has access,

but such materials need not comprise working drawings prepared in such detail as would be required to ascertain compliance with the building code.

(5) Where the applicant does not furnish the further studies, reports or information required under subsections (2) and (3) within a reasonable time, the Commission or planning authority is not required to determine the application and the application may be returned undetermined to the applicant with a notice to that effect.

(6) An applicant for permission to develop land may at any time, with the consent of the Commission or planning authority, amend the application and such of the plans, maps, diagrams or other material accompanying the application as the applicant deems advisable, and upon such amendment the Commission or planning authority shall continue consideration of such application as amended.

(7) Where permission has been granted upon an application that is accompanied by any material required under subsection (2) or (3) that is incorrect in any material particular, the Minister may revoke any permission granted pursuant to the application without incurring any liability to pay compensation to the applicant or any person on whose behalf the application was made, and any development commenced pursuant to permission to develop land so revoked is a contravention of this Act and shall be deemed to be a breach of planning control under section 52.

38. (1) Subject to subsection (2), every application for permission to develop land shall be accompanied by a certificate signed by the owner of the land to which the application relates or his duly authorized representative certifying that the owner consents to the application. Certificate of Owner

(2) Where, owing to the absence of the owner of land to which an application for permission to develop land relates or for any other reason which appears to the Commission or planning authority to be sufficient, the applicant is unable to supply the certificate required by subsection (1) the Commission or planning authority may dispense with that requirement.

(3) Where an application is accompanied by a certificate under this section that is incorrect in any material particular, the Minister may revoke any permission granted upon the application without incurring liability to pay compensation to the applicant or any person on whose behalf the application was made; and any development commenced in pursuance of permission to develop land granted on the basis of any application so revoked shall be deemed unauthorized development.

Publicizing of certain applications

39. (1) Where application is made for permission to develop land and the application is or includes an application that relates to one or more of the classes of applications for permission to develop land specified in subsection (2), the applicant shall publicize the application by—

- (a) publishing, in at least one daily newspaper, a notice in the prescribed form to the effect that an application for permission to develop the land has been submitted to the Commission or the planning authority, and such notice shall identify the land and describe the proposed development in such manner as would enable members of the public to understand the proposal in general terms, and invite comments and representations to be made to the Commission or to the planning authority, either in writing or orally, on or before a date that is not less than thirty days after the date of filing the application;
- (b) affixing and maintaining in a secure manner on the land concerned, a notice in form similar to that required by paragraph
- (c) in a size and position that would make it conspicuous to passersby;

- (d) paying the costs of the Commission or the planning authority for having a survey made or otherwise consulting residents, workers and persons owning or occupying land within the prescribed distance from the site and preparing a report thereon; and
- (e) publishing where any permission to develop land is granted in response to the application, in at least one daily newspaper, a notice in the prescribed form indicating—
 - (i) that such permission has been granted;
 - (ii) the general nature of the development permitted by the permission;
 - (iii) a location where a copy of the decision letter granting permission might be examined; and
 - (iv) the time within which any appeal against the decision must be made.

(2) The classes of applications referred to in subsection (1) are applications for permission—

- (a) to develop, alter, add to or demolish in whole or in part a listed building or a building subject to a building preservation order;
- (b) to develop land in an area of special interest;
- (c) to develop land where an environmental impact statement is required;
- (d) to deposit, store or otherwise deal with toxic or hazardous material, or waste;
- (e) to develop any manufacturing process which will involve, either directly or as waste, the production of toxic or hazardous substances;

- (f)* to erect a building exceeding such height as may be prescribed, except where permitted in a development plan;
- (g)* to develop land where such development includes any proposal for a major departure from—
 - (i)* an approved or provisional development plan; or
 - (ii)* a policy statement published in accordance with section 32;
- (h)* to construct buildings for use as public conveniences, except where permitted in a development plan;
- (i)* to construct buildings or use buildings or land for the purpose of a fun fair, theatre, cinema, music hall, dance hall or pan yard, except where permitted in a development plan;
- (j)* to use land as a used car lot, or wrecking or scrap yard, except where permitted in a development plan;
- (k)* to construct buildings or use buildings or land for killing or plucking poultry or as an abattoir, except where permitted in a development plan;
- (l)* to construct buildings or use buildings or land for a zoo or the business of boarding, breeding, raising or training cats or dogs, except where permitted in a development plan;
- (m)* to construct buildings or use buildings or land for a place of worship or a funeral home, except where permitted in a development plan;
- (n)* to construct buildings or use buildings or land for a gasoline or compressed natural gas service station, except where permitted in a development plan;

- (o) to construct buildings or use buildings or land for an automobile body repair or refinishing shop, except where permitted in a development plan; and
- (p) to develop land for any other purpose set forth in an order made by the Minister.

(3) The Commission or any planning authority may direct that the provisions of subsection (1) shall apply to any application, notwithstanding that such application does not fall within any of the classes specified in subsection (2).

(4) In determining the application, the Commission or a planning authority shall consider any report, representation or comment submitted or made to the Commission or the planning authority under this section.

40. (1) In considering any application under section 37, the Commission or any planning authority shall take into account—

Consideration of application and grant of permission to develop land

- (a) the National Physical Development Plan;
- (b) any applicable approved development plan or area of special interest plan;
- (c) where the application pertains to an area of special interest, the provisions of subparagraphs (4), (5), (7), (8) and (9) in paragraph 3 in the Second Schedule;
- (d) any statement of policy published in accordance with section 32 which has been laid before Parliament and which is relevant to the application;
- (e) any disaster mitigation plan relevant to the area and vicinity to which the application relates;
- (f) any required and accepted environmental assessment made in respect of the application;

- (g)* where a certificate of environmental clearance is required under the Environmental Management Act, whether such certificate has been refused or issued and any terms thereof;
- (h)* such of the following as, in the opinion of the Commission or the planning authority, are relevant to the application:
 - (i)* any applicable provisional development plan or area of special interest plan;
 - (ii)* any representations made by or the results of a survey of members of the public; and
 - (iii)* any other material consideration.

(2) Without restricting the generality of subsection (1)*(h)(iii)*, amongst the considerations that may be regarded as material are—

- (a)* the uses to which the land is being put at the time of the application;
- (b)* the pattern of development of the area in which the land is located;
- (c)* the likely effects on the environment of the proposed development;
- (d)* the availability of alternative sites for the proposed development;
- (e)* any economic or social costs or benefits to the community which are likely to be generated by the proposed development; and
- (f)* the quality of the architectural design and layout of the proposed development.

(3) Where the application relates to a subdivision of land, the Commission or the planning authority shall

have regard to the health, safety, convenience and welfare of the future inhabitants of the subdivision, and of those presently residing in the vicinity, and to—

- (a) any policies on the use of land for agricultural purposes adopted by the Minister responsible for agriculture;
- (b) whether the proposed subdivision is premature or in the public interest;
- (c) the number, width, location, grades and elevations of any proposed roads, the roads proposed to link the proposed roads in the subdivision with the established road system in the vicinity, and whether all such roads are adequate;
- (d) the dimensions and shapes of the proposed lots;
- (e) whether the proposed utilities and services are adequate, taking into account the need for a variety of levels of services to land consistent with public health and safety;
- (f) whether sites for schools and other relevant social or industrial support services are adequate;
- (g) the suitability of the land for the purposes for which it is to be subdivided; and
- (h) the need to provide a variety of forms of housing for the inhabitants of Trinidad and Tobago.

(4) The Commission or the planning authority may, having taken into account all material considerations—

- (a) grant permission unconditionally;
- (b) grant permission subject to conditions; or
- (c) refuse permission.

(5) A determination pursuant to subsection (4) shall be in writing and shall, where subsection (4)(b) or (c) applies, be accompanied by—

- (a) a statement of the reasons for the imposition of the conditions or the refusal;
- (b) information with respect to any right of appeal of the determination available to the applicant; and
- (c) advice on possible revisions to or further submissions of the application as the Commission or planning authority may deem appropriate in the circumstances.

Conditions on
permission to
develop land

41. (1) Without restricting the generality of section 40(4)(b), the conditions which may be imposed on the grant of permission to develop land may include conditions—

- (a) regulating the development or use of any land under the control of the applicant (whether or not it is land to which the application relates), or requiring the carrying out of works including the demolition of any building on any such land and the removal of any plant or machinery from the land to the extent which the Commission or the planning authority deems to be expedient for the purposes of or in connection with the development authorized by the permission;
- (b) requiring, at the expiration of any specified period, the removal or demolition of any buildings or works authorized by the permission, the discontinuance of any use of land so authorized, the removal of any plant or machinery used in connection with the development or use of land so

authorized and the carrying out of any works required for the reinstatement, restoration, preservation, rehabilitation, or continued beneficial use of the land and the environment;

- (c)* providing for the payment of money, money's worth or the conveyance of land to the State or to such local or other authority as the Minister directs in lieu of works or the provision of facilities and services which could be required as part of the development of land authorized by the permission;
- (d)* providing that the development of land authorized by the permission shall proceed by stages and setting out those stages;
- (e)* regulating the use which may be made of any building or land authorized by the permission notwithstanding any order made under paragraph 35(2) *(f)*;
- (f)* requiring continuous environmental monitoring of the use or operations authorized by the permission;
- (g)* regulating the times and hours of work during which development authorized by the permission may be carried out;
- (h)* requiring the applicant to enter into any agreement with a local authority, a Department of Government or other authority providing for the matters referred to in section 45;
- (i)* requiring the applicant to obtain an agreement from the owner, or such of the owners as the Commission or planning authority may require, securing such covenants to run with the land and such other matters as the Commission or planning authority may require.

- (j)* for the retention of any existing buildings or other structures or the use of the land to which the application relates for a specified period;
- (k)* for the preservation of any buildings on, natural features of, plants and animals in and about, and objects and features relating to the cultural heritage of Trinidad and Tobago in, on or under the land to which the application relates;
- (l)* requiring the owner of a parcel to provide part of that parcel as an environmental reserve if it consists of—
 - (i)* a swamp, gully, ravine or natural drainage course;
 - (ii)* land that is subject to flooding or, in the opinion of the Commission or planning authority, is unstable or otherwise constitutes an environmental hazard; or
 - (iii)* a strip of land not less than five metres wide abutting the bed and shore of any pond, river, stream or other body of water for the purpose of—
 - (A)* preventing pollution; or
 - (B)* providing public access to and beside such bed and shore;
- (m)* for the posting of a bond as security for the satisfaction of any condition subject to which permission to develop land is granted; and
- (n)* requiring the applicant to obtain the approval of any other authority prior to commencing any development of land to which the application relates.

(2) Permission granted subject to any condition involving a specified period of time including the conditions referred to in subsections (1)(b) and (j) is referred to in this Act as “permission for a limited period only.”.

(3) For the purposes of subsection (1)(l), “environmental reserve” means land required to be set apart for protection against environmental hazard within the meaning of section 58(1) or for the purpose of providing public access.

42. (1) Subject to the provisions of this section, every permission to develop land granted or deemed to have been granted before the commencement of this Act shall, if the development to which it relates was not commenced before January 1, 1998, be deemed to have been granted subject to the condition that the development shall be commenced not later than the expiration of five years from the commencement of this Act.

(2) Subject to the provisions of this section, every permission to develop land granted after the commencement of this Act shall be granted subject to the condition that the development must be commenced not later than a date specified in the permission, and if no date is specified, then within five years from the date on which the permission is granted.

(3) The Commission or the planning authority may, at the request of the applicant, before the expiry of any permission to develop land, extend the duration of such permission.

(4) Nothing in this section applies to—

- (a) any outline development approval granted to develop land;
- (b) any permission to develop land granted by a development order;

- (c) any planning permission granted before the coming into operation of this Act that was subject to a condition that the development to which it relates should be commenced or completed not later than a specified date or within a specified period;
- (d) any permission for a limited period only; or
- (e) any outline planning permission granted under the former Act.

(5) For purposes of this section, development shall be deemed to have commenced when any activity falling within the scope of development of land as that term is defined by section 35 has commenced, whether or not such activity is continued thereafter.

(6) For greater certainty, the placing of markers, boundary stones, pegs or other similar devices, or the placing of any material in, on or above the land to demarcate the land or to indicate where development of the land is to take place does not constitute development of land for purposes of this section.

(7) A grant of permission to develop land that has expired and has not been extended has no force or effect and any development of land undertaken in reliance on such expired grant of permission constitutes development undertaken without permission and is a breach of planning control within the meaning of section 52.

Outline development approval to erect buildings or subdivide land

43. (1) An application for outline development approval (hereinafter referred to as an “outline application”) may be made to the Commission or a planning authority for the purpose of determining whether proposed development comprising the erection of buildings or the subdividing of land is of such type and scope as is permitted under any relevant development plan and the existing planning policy.

(2) An outline application shall be made in such form and shall be accompanied by such fees, plans and other information as may be prescribed.

(3) A grant of outline development approval does not permit commencement of any operations in, on, under or over land to which the grant relates and permission to develop land must be granted before any development of land is commenced.

(4) Where the Commission or planning authority concludes that an outline application ought not to be considered separately from the details and information required to accompany an application for permission to develop land in accordance with section 37, the Commission or the planning authority shall forthwith notify the applicant that outline development approval cannot be granted, and invite the applicant to submit an application for permission to develop land under section 37.

(5) The Commission or planning authority shall, in determining an outline application, insofar as is relevant and practicable, have regard to the considerations referred to in subsections (1), (2) and (3) of section 40.

44. (1) Where outline development approval is granted under this Act, it shall, unless otherwise provided in the outline development approval, be subject to the condition that application for permission to develop land respecting the development thereby approved must be made not later than the expiration of one year from the granting of the outline development approval.

(2) The Commission or the planning authority may, at the request of the applicant before the expiry of outline development approval, extend the duration of the outline development approval.

Planning agreements **45.** (1) Where application is made for permission to develop land under section 37, the Commission or the planning authority or both may enter into agreements with the applicant, the owner or any other person interested in the land, and any such agreement may contain such terms and conditions as the Commission or planning authority deems appropriate.

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

- (a) covering any matter in respect of which conditions may be imposed on a grant of permission to develop land pursuant to sections 40(4)(b) and 41(1);
- (b) providing for contribution (whether of works, money or money's worth, or conveyance of land) by the applicant towards the provision of services, facilities including the future maintenance of such facilities, and amenities in the area in which the proposed development is to be carried out; and
- (c) providing for the furnishing of security by the applicant to ensure due compliance with the terms of the agreement including security for any contributions required under paragraph (b) of this subsection.

(3) An agreement made under this section with the owner of the land shall be enforceable against the owner and against any and all subsequent owners and occupiers of the land, and the Commission and the planning authority shall be entitled to maintain an action for damages, or for mandatory or injunctive relief, and may require any defendant in such action to comply with any covenant, whether positive or negative and notwithstanding the absence of any dominant tenement, contained in any such agreement.

(4) A record of every agreement made under this section shall be noted in a register of applications, which register shall be open to the public, and such a record shall be deemed to be sufficient notice of the agreement for all purposes connected with the enforcement of that agreement in accordance with subsection (3), and the Minister or planning authority may also register any agreement against the title to the land.

46. Where the Commission or a planning authority Performance bonds requires a bond as security for the performance of any condition subject to which permission to develop land is granted, or for the performance of any agreement, the bond shall be in such form and contain such conditions and be secured with such sureties (including, without limitation, a charge on the land to which the permission or agreement relates) as the Commission or the planning authority deems to be acceptable, expedient and proper to ensure that the bond may be enforced.

47. (1) The grant of permission to develop land Supplementary provisions respecting grants of permission to develop land under this Part may, subject to the provisions of section 54, include permission, with or without conditions, for the retention on land of any buildings or works constructed or carried out before the date of the application, or for the continuation of use of land and buildings where such use commenced before such grant (whether or not the use has been carried on with permission granted under this Part or in accordance with a grant of permission for a limited period only).

(2) Any permission referred to in subsection (1) may be granted to take effect from the date on which the buildings were constructed, the works were carried out, or the use was instituted, or from the expiration of any permission granted for a limited period only, as the case may be.

(3) Where permission is granted for the development of land under this Part, the grant of permission may specify the purposes for which the land or any buildings to be erected on the land may be used; and, if no purpose is so specified, the permission shall be construed as permitting the use of the land and any such buildings only for the purposes shown in the application and any supporting material upon which the application was based.

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

Effect of grant of
permission to
develop land

48. (1) Where permission to develop land is granted under this Part, except as may otherwise be provided by such permission, the permission inures to the benefit of the land and of all persons for the time being interested therein, but without prejudice to the provisions of this Part respecting the revocation and modification of permission.

(2) Where pursuant to section 39, an application for permission to develop land was required to be publicized then, any permission granted on the application shall take effect—

- (a) where no notice of appeal is served within the period prescribed for bringing an appeal under Part VII, upon the expiry of such prescribed period; or
- (b) where notice of appeal was served within the period prescribed for the bringing of appeals under Part VII, upon the final determination or abandonment of the appeal to which such notice of appeal relates.

49. (1) The Minister may give directions requiring Minister's powers in relation to planning applications and decisions that any application for permission to develop land, for outline development approval, or for the approval of any matter by the Commission or any planning authority required under a development order, be referred to him instead of being dealt with by the Commission or the planning authority.

(2) A direction given pursuant to subsection (1)—

(a) may be given either to a particular planning authority or to planning authorities generally; and

(b) may relate either to a particular application or to any or all applications of a class specified in the direction.

(3) Any application in respect of which a direction under this section has effect shall be referred to the Minister accordingly.

(4) Subject to subsection (5), where an application for permission to develop land or for outline development approval is referred to the Minister under this section, the provisions of sections 39, 40, 41 and 43, shall apply with any necessary modifications, as they apply to any such application which falls to be determined by the Commission or a planning authority.

(5) Before determining an application referred to him under this section, the Minister shall, if any of the applicant, the Commission, or a planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by a person appointed by the Minister for that purpose.

(6) The decision of the Minister on any application referred to him under this section is final.

50. (1) Subject to subsections (2) to (7), if, in the opinion of the Minister and having regard to the provisions of subsections 40(1), (2) and (3), it is Revocation or modification of permission to develop land advisable that any permission to develop land or any outline development approval be revoked or modified, the Minister may by Order revoke or modify the permission or outline development approval.

(2) The power conferred on the Minister by this section to revoke or modify permission to develop land or outline development approval may be exercised—

- (a) where the permission relates to the carrying out of building operations or other operations, at any time before such operations have been commenced;
- (b) where the permission relates to a change in the use of any land, at any time before such change has taken place; or
- (c) where the permission relates to a subdivision of land, at any time before registration of the plan, transfer, deed or other instrument effecting such subdivision under the Real Property Ordinance or the Registration of Deeds Act, as the case may be.

(3) Where permission to develop land or outline development approval is revoked or modified by an Order made under this section, and if, on a claim made to the Minister within six months of the making of the Order, it is shown that any person interested in the land has—

- (a) incurred expenditure in carrying out work authorized by such permission that is rendered valueless, or less valuable, by the revocation or modification;
- (b) entered into contracts that have become impossible of performance; or
- (c) otherwise sustained loss or damage that is directly attributable to the revocation or modification,

the Minister shall pay to that person compensation in respect of such expenditure, loss or damage.

(4) No compensation shall be payable under subsection (3) in respect of loss or damage consisting only 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 relation to the preparation of plans, specifications, studies or reports (or any similar materials used in the preparation thereof)—

(a) consequent upon the grant of outline development approval; or

(b) used for the purposes of obtaining the permission,

that has been revoked or modified, shall be deemed to be included in the expenditure incurred in carrying out the work referred to in subsection (3)(a), but no other compensation shall be paid under this section in respect of work carried out before the grant of the permission that has been revoked or modified, or in respect of any other loss or damage arising out of anything done or omitted to be done before the grant of such permission.

(6) Where permission for the development of land granted by a development order has been withdrawn, whether by the revocation or modification of the order or by the issue of directions, and pursuant to an application made under this Part relating to the same development, permission for the development of land is refused or is granted subject to conditions other than those previously imposed by the development order, the provisions of this section shall apply as if permission granted by the development order had been granted by the Minister under this Part and was subsequently revoked or modified by such directions or by an order made under this section.

(7) Where, pursuant to this section, compensation is payable or has been paid in respect of expenditure incurred in carrying out any work on land, and the Minister subsequently acquires such land, any compensation payable in respect of the acquisition of the land assessed pursuant to the Acquisition of Land Act shall be reduced by an amount equal to the amount of compensation payable in respect of works by virtue of subsection (3)(a) of this section, to the end that the landowner shall be paid once only for such works.

51. (1) Where the Commission is of the opinion that any development of land for which permission to develop was granted subject to a condition that the development to which the permission relates be begun before the expiration of a certain period (whether the condition was imposed by virtue of this Act or otherwise) is unlikely to be completed within a reasonable period, the Commission may, taking into consideration such matters as the Commission thinks fit, serve a notice (below referred to as a “provisional development completion notice”) stating that the permission to develop land shall cease to have effect at the expiration of such further period, being not less than one year from the date of the notice as is specified in the notice.

(2) A provisional development completion notice shall be served on the owner and occupier of the land to which the notice relates, and upon any other person known to the Commission to have an interest in the land.

(3) A person on whom a provisional development completion notice has been served may, within one month of such service, make representations to the Commission.

(4) The Commission may, after taking into account any representations made under subsection (3)—

- (a) confirm the notice without variation;
- (b) confirm the notice with variations by substituting some longer period; or
- (c) cancel the provisional development completion notice.

(5) A provisional development completion notice that is confirmed with or without variation shall, from the date of confirmation, be a development completion notice and references in this section to a provisional development completion notice shall be construed accordingly.

(6) A development completion notice takes effect from the date on which it is confirmed by the Commission.

(7) Any permission to develop land to which a development completion notice relates shall, at the expiration of the period provided for in such notice for the completion of the development, cease to have effect.

(8) The Commission may withdraw a development completion notice at any time before the expiration of the period provided for in such notice for the completion of the development, and prior to such withdrawal may, in the discretion of the Commission, consider any representations made by any person on whom the development completion notice was served.

(9) This section does not apply to permission for the development of land relating to the erection or enlargement of a single-family dwelling.

52. (1) In this section, “breach of planning control” ^{Enforcement of planning control} means any development or use of land commenced, existing, or continuing without any required permission to develop land having been granted, or where such permission to develop land was granted, the carrying out of development in breach of the terms of such permission.

(2) Where the Commission or planning authority has reasonable grounds to believe that a breach of planning control has occurred, the Commission or planning authority may, in addition to any other remedies or procedures provided under this Act, cause an immediate compliance order or a compliance notice to be served.

(3) An immediate compliance order may be served where the Commission or planning authority has reason to believe that, as of the date of the order—

(a) construction, demolition or a material change to a building or a change in use is occurring or has occurred in the preceding sixty days, without or contrary to permission to develop land;

- (b)* preparation for any activity referred to in paragraph *(a)* is occurring or has occurred in the preceding sixty days; or
- (c)* a breach of planning control exists and, notwithstanding the date when such breach began, the Commission or planning authority reasonably believes that the breach, if not immediately stopped or rectified, may constitute a danger or pose a serious risk of danger to the public or to the life of any person or is causing substantial impairment of the environment or, in the opinion of the Commission or planning authority, may cause serious risk of substantial impairment of the environment.

(4) The Commission or planning authority may in writing amend or revoke an immediate compliance order.

(5) The Commission or planning authority need not provide any person with an opportunity to make representations prior to making or amending an immediate compliance order.

(6) Where the circumstances set out in subsection (3) exist or the Commission or planning authority is of the opinion that it is appropriate, in lieu of issuing or in addition to issuing an immediate compliance order, the Commission or planning authority may obtain an *ex parte* restraining order or other temporary or permanent injunctive or equitable relief to prevent or remedy any breach of planning control or any further such breach.

(7) An immediate compliance order may be served on any owner, occupier, contractor, or any person appearing to be in control of the land or the development.

(8) Any person on whom an immediate compliance order or a compliance notice is served may appeal to the Board from such order or notice pursuant to section 95.

(9) The appeal to the Board referred to in subsection (7) shall not stay the operation of an immediate compliance order or compliance notice.

(10) The provisions of subsections (11), (12) and (13) apply, *mutatis mutandis*, to an immediate compliance order except to the extent of any inconsistency.

(11) A compliance notice may be served on—

- (a) any owner of land in respect of which a breach of planning control exists;
- (b) any person apparently in occupation, possession or control of such land;
- (c) any mortgagee or other person having an interest in the land;
- (d) any previous owner, occupant or person who has been in possession or control of the land and whose actions or inactions may have caused or contributed to the breach of planning control or to the continuation of such breach; and
- (e) any agent or contractor of any person referred to in paragraphs (a) to (d), or any other person carrying out any activity on the land, whether or not such person has an interest in the land.

(12) A compliance notice may require compliance with its terms within twenty-eight days following the date the notice was served or deemed to be served.

(13) Where a compliance notice is served on an employee or agent of an employer, principal or owner the notice shall be deemed to have been served on the employer, principal or owner.

(14) An immediate compliance order or compliance notice shall specify—

- (a) the matters alleged to constitute a breach of planning control;
- (b) any steps required to be taken in order to prevent or remedy the breach;
- (c) the period within which the steps referred to in paragraph (b) are to be taken, and different periods may be specified for different steps; and
- (d) the opportunities for the person on whom the order or notice has been served to appeal such order or notice.

(15) In this section, steps required to be taken in order to prevent or remedy a breach may include:

- (a) applying for permission to develop the land;
- (b) discontinuing the unauthorized use or development commenced on the land;
- (c) restoring the land, including (without limitation) replanting trees and other plants, to the condition it was in before the use or development constituting the breach of planning control took place;
- (d) securing compliance with the conditions subject to which permission to develop land, if any, was granted, including—
 - (i) demolition or alteration of any building or works in whole or in part; and
 - (ii) carrying out on the land the construction of any building or other operations (including building operations or other operations) to alleviate the effects of the breach of planning control;
- (e) removing any unauthorized marks of identification in, on, or over the land which

- have as their purpose the identification of a boundary of a subdivision which constitutes a breach of planning control;
- (f) making the development comply with the terms of any permission to develop land which has been granted in respect of the land;
 - (g) removing or alleviating any injury to the land or to the amenities of the area which has been caused by the development;
 - (h) preventing damage to—
 - (i) land, other than the land on which the development has taken place;
 - (ii) aquifers beneath such land; and
 - (iii) plants and animals found in, on, under or about such land,
 which has been or is likely to be caused by the development;
 - (i) removing any waste deposited in breach of planning control and depositing such waste in an authorized place of deposit; and
 - (j) covering and altering the contours of any waste deposited in breach of planning control.

(16) A copy of any immediate compliance order or compliance notice shall be delivered to any building official who has issued or has responsibility for issuing a permit authorizing any construction on the land.

53. The Commission or planning authority may at any time withdraw or modify an immediate compliance order or compliance notice but without prejudice to the right of the Commission or planning authority to issue a further order or notice in respect of the same breach of planning control, and the Commission or planning

Withdrawal or
modification of
compliance notice

authority shall, if such notice is withdrawn, serve a notice of withdrawal or modification on every person who was served with the immediate compliance order or compliance notice.

Applications to
retain or continue
unauthorized
development

54. (1) Where application is made under this Part for permission to retain or continue any unauthorized development or use of land, the application shall be accompanied by the information, materials and fees required by section 37.

(2) Upon receipt of such an application the Commission or planning authority may—

- (a) grant permission to—
 - (i) retain or complete any buildings or works on the land; or
 - (ii) continue any use or operation commenced in breach of planning control;
- (b) alter, modify or discharge any condition or limitation subject to which any permission to develop land was granted;
- (c) determine any purpose for which the land may be lawfully used, having regard to any past use and to any permission to develop land relating to such land; and
- (d) impose such conditions as the Commission or planning authority deems advisable, including a condition that a charge be paid to such persons or authorities as the Commission or planning authority directs in respect of the breach of planning control relating to the development sought to be authorized; or
- (e) refuse the application.

(3) In considering whether to grant permission to retain or continue unauthorized development or use of land, the Commission or planning authority—

(a) may, in the case of a class of applications specified in section 39(2) or in any other case which, in the opinion of the Commission or planning authority is appropriate, require the applicant to take any of the steps specified in section 39(1); and

(b) shall have regard to such of the provisions of sections 40(1), (2) and (3) as are material to the application.

(4) Where either an immediate compliance order or environmental repair order has been issued in respect of a matter for which an application under this section is made, the Commission or planning authority shall not process such application until the requirements of the order have been complied with.

(5) Where the Commission or planning authority imposes a condition under subsection (2)(d) to the effect that a charge shall be paid in respect of the breach of planning control, the charge may include—

(a) a sum related to the cost to the State or any authority for the provision of special works for the servicing of the development undertaken in breach of planning control;

(b) a sum related to the cost to any person or authority for corrective or ameliorative works appropriate for the purpose of abating any nuisance, damage to any amenity or the environment or any other injury caused by the breach of planning control; and

(c) a sum representing the estimated loss in any amenity of the area occasioned by the breach of planning control or, where such estimate cannot be made, a sum payable in respect of each year or part of a year after the commencement of this Act or the former Act during which the unauthorized building or other structure is retained or the unauthorized use or operations are continued in breach of planning control.

(6) The determination of an application under this section may be appealed to the Board under section 94.

Supplementary
provisions as to
enforcement

55. (1) If, within the period specified in a compliance notice, an immediate compliance order or an environmental repair order or within such extended period as the Commission or planning authority may allow, any steps required by such notice or order have not been taken, the Commission or planning authority may enter on the land and take the required steps, and may recover as a debt in any court of competent jurisdiction from the owner of the land and from any other person who may have been responsible for the breach of planning control or for the actions resulting in the immediate compliance order, compliance notice or environmental repair order, any expenses reasonably incurred by the Commission or planning authority through such entry and taking of required steps (including a charge not to exceed ten per cent of the total expenditure so incurred as a "mobilization fee").

(2) None of the persons referred to in subsection (1) or their predecessors in title, who were entitled to appeal to the Board under section 95 but failed to do so, shall be entitled in proceedings under this subsection to dispute the validity of the action taken by the Commission or planning authority upon any ground that could have been raised in such an appeal.

(3) Compliance with an immediate compliance order, a compliance notice or an environmental repair order does not discharge such order or notice, and after compliance or partial compliance with the order or notice has been achieved, any person who has notice of the order or notice and who acts or permits any action contrary to its terms is liable on summary conviction to a fine of ten thousand dollars and, in case of a continuing offence, to a further fine of one thousand dollars for every day after the first day during which such offence continues.

56. (1) Any conveyance, transfer, agreement, vesting order, transfer of land by will, gift, plan of survey, partition order, lease for a term of more than three years (including any period contemplated by any option or right of renewal), mortgage, or any other instrument that purports to subdivide land shall not create or convey any interest in land unless permission to develop land for such subdivision was first obtained, but this section does not affect an agreement entered into subject to the express condition contained therein that such agreement is to be effective only if permission to develop land is obtained.

(2) Notwithstanding subsection (1), where—

- (a) any person agrees to sell, or purports in good faith to sell, land in relation to the sale of which permission to develop land is required;
- (b) the agreement or purported sale would have been lawful and effective if such permission had been granted prior to the making of the agreement; and
- (c) such permission is given after the agreement has been made or the purported sale has taken place,

the permission shall operate to make the agreement or purported sale valid and effectual for all purposes, notwithstanding that the permission was given after the agreement or purported sale.

(3) Where a permission affects land by virtue of subsection (2), the permission shall have effect as provided in that subsection in relation to any transaction made in relation to the land, whether so made before or after the permission and by whomever so made.

Permitted
subdivision may be
continued
notwithstanding
expiry of permission

57. When permission to develop land has been granted for the subdivision of land, and a plan of subdivision has been registered in accordance with such permission, land that is shown as the whole of a lot or block on that plan of subdivision may be lawfully conveyed notwithstanding that the permission to develop land upon which the plan was based has expired.

Environmental
repair order

58. (1) In this section—

“environmental hazard” means any condition, location, development, activity, process or pollution on or in the vicinity of lands subject to development which—

- (a) constitutes or, in the opinion of the Commission, is likely to constitute a danger to human life, health or safety;
- (b) is causing injury or damage or in the opinion of the Commission may cause serious risk of injury or damage to property; or
- (c) is causing substantial impairment of the environment or, in the opinion of the Commission, may cause serious risk of substantial impairment of the environment, in respect of which no immediate effective remedy is available under the Environmental Management Act;

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“environment” means all land, areas beneath the land surface, atmosphere, climate, surface water, groundwater, sea, marine and coastal areas, seabed, wetlands and natural resources within the jurisdiction of Trinidad and Tobago;

“pollution” means the creation or existence of any deviation from natural conditions within the environment which (based on technical, scientific or medical evidence) is determined to cause or likely to cause harm to human health or the environment, resulting from—

- (a) the presence or release of any substance; or
- (b) any type of disturbance, whether by noise, radiation, temperature variation, vibration, other energy manifestation or objectionable odours;

“restore the environment” means restore all forms of life, physical conditions and the environment to its natural state as far as practicable.

(2) Without restricting the generality of subsection (1), the following conditions, whether they already exist or, in the opinion of the Commission, are likely to occur on or in the vicinity of lands subject to development, constitute environmental hazard:

- (a) erosion or the potential for erosion;
- (b) flooding or the potential for flooding;
- (c) landslides or unstable soils;
- (d) pollution of surface waters, aquifers, air or land;
- (e) the breach of an international obligation undertaken by Trinidad and Tobago with respect to the environment including plants and animals; and
- (f) abandoned, discarded or unlawfully deposited waste of any type except for the deposit of domestic waste generated by a person or a family on property which they own or occupy.

(3) Notwithstanding any other provision of this Act and whether or not the Commission has caused a compliance notice to be issued, the Commission may at any time issue an environmental repair order which may be directed to one or more of the following:

- (a) any owner of land;
- (b) any person apparently in occupation, possession or control of the land; and
- (c) any other person carrying on activities on the land which, in the opinion of the Commission, constitute an environmental hazard, whether or not such person has any interest in the land,

and a copy of the order may be provided to any mortgagee or other person having an interest in the land.

(4) Notwithstanding any act, regulation, by-law, ordinance, order, permit, approval or license, and in addition to the rights of the Commission under section 52, the Commission may in an environmental repair order require the person or persons to whom it is directed, immediately or within the time specified—

- (a) to cease or cause the cessation of any activity, use of land or development;
- (b) to do everything practicable or take such action as may be specified in the order whether on the land subject to development or in the vicinity, in respect of the prevention, elimination and amelioration of the environmental hazard and the restoration of the environment;
- (c) to do everything practicable or take such action as may be specified in the order in respect of the use or disposal of any pollutant or any part of the environment affected or that may reasonably be expected to be affected by a pollutant;

- (d) to comply with the terms of any permission to develop land which has been granted;
- (e) to remove or alleviate any injury to the land or to the amenities of the area which has been caused by the development;
- (f) to remove any waste deposited without permission and dispose of such waste in an authorized place of disposal;
- (g) to remove any fill or restore the contours of land which has been altered.

(5) The Commission may in writing amend or revoke an environmental repair order.

(6) The Commission is not required to provide any person an opportunity to make representations before making or amending an environmental repair order.

(7) Where an environmental repair order is served on an employee or agent of an employer, principal or owner named in the order, the order shall be deemed to have been served on such employer, principal or owner.

(8) A person who in good faith and in a reasonable manner, carries out or attempts to carry out an environmental repair order issued by the Commission and takes or refrains from taking any action as required by such order shall not be convicted of an offence with respect thereto.

(9) Where an environmental hazard exists or may occur, or the Commission is of the opinion that it is appropriate, in addition to or in lieu of issuing an environmental repair order the Commission may obtain an ex parte restraining order or other temporary or permanent injunctive or equitable relief to prevent any activity by any person in order to prevent or ameliorate any environmental hazard or restore the environment.

(10) Any person on whom an environmental repair order is served may appeal to the Board from such order in accordance with the provisions of section 95.

(11) The appeal to the Board referred to in subsection (10) shall not stay the operation of an environmental repair order.

Display of permission
to develop land

59. (1) On all land undergoing development to which this section applies, there shall be prominently displayed and maintained in, on or about the area being developed at least one notice of the grant of permission to develop the land.

(2) Display of a building permit issued pursuant to Part V shall, in respect of the development permitted by that permit, constitute compliance with this section.

(3) This section applies to any development of land which consists of or includes building operations or mining, engineering or other operations, in, on, over, or under land (including the constructing or installing of services for the purposes of land subdivision) during the continuance of those building, mining, engineering or other operations, but does not apply to building operations consisting solely of an extension or alteration to a dwelling house.

Special regimes

60. (1) Where the Commission considers that existing institutional arrangements are not immediately applicable, or are otherwise inadequate for the support of appropriate development with respect to any area, activity, or other matter, the Commission may recommend to the Minister that a special planning jurisdiction be established in which special rules shall apply with respect to such area or matter.

(2) Without restricting the generality of subsection (1), a special planning jurisdiction may include designated areas and activities including areas for urban development or re-development and areas prone to disaster, whether natural or man-made.

(3) The Minister may by order designate an area or activity to be a special planning jurisdiction and may by order provide for the regulation of such area or activity.

(4) Without restricting the generality of subsection (3), the Minister may by order provide for the regulation of—

- (a) any area designated an area of special interest;
- (b) the consideration of any application for permission to develop land which requires an environmental impact assessment to be prepared;
- (c) the preservation of any building of special historical or architectural merit or interest;
- (d) the preservation of trees and woodlands for amenity, good development or environmental protection;
- (e) the display of advertisements out-of-doors;
- (f) the maintenance of waste land;
- (g) the reparation of land having bad layout and requiring upgraded services or otherwise suffering from obsolescent development;
- (h) areas subjected to spontaneous settlements and areas reserved for the relocation of persons in occupation of land subject to spontaneous settlement,

and until any such order is made and insofar as any such order is not inconsistent therewith the provisions of the Second Schedule shall have effect.

(5) The Minister may by order amend the Second Schedule.

(6) An Order made under this section shall be subject to negative resolution of Parliament.

(7) In this section “area of special interest” has the meaning ascribed to it in paragraph 1 of the Second Schedule.

PART V

LAND DEVELOPMENT AND BUILDING CODES AND PERMITS

Establishment of
Building Code

61. (1) The Commission shall prepare and submit for the Minister's approval such codes and standards relating to development, safety and environmental protection as are mentioned in this section.

(2) The Minister shall by regulation establish a building code for Trinidad and Tobago, consisting of such engineering and design standards applicable to the construction of buildings as appear desirable for the structural and fire safety of buildings and the safety, health and general welfare of persons using them or in their vicinity.

(3) Except as provided in subsection (4)(a), the building code shall govern new construction of buildings and new additions to buildings, but shall not be applied to existing buildings or parts of buildings at the time of renovations or alterations, provided that no such renovation or alteration shall result in any existing part of an existing building being further out of compliance with the building code than was the case before the alteration or renovation was undertaken.

(4) The Minister shall, by regulation establish—

- (a) codes of retrofit standards designed to provide acceptable levels of sanitation and safety from the dangers of fire or other hazards for any class of existing building, which standards may require alterations or renovations being made to such buildings in order to achieve compliance, and may prescribe periods within which buildings of any class may be required to be brought into conformity with such standards; and
- (b) administrative procedures for securing approvals and timely provision of utility services, and infrastructure in relation to the subdivision of land;

- (c) codes, standards and practices in relation to infrastructure and engineering works specifying acceptable design criteria for the development of land, including—
- (i) site preparation;
 - (ii) building construction;
 - (iii) landscaping and re-vegetation,
- with the aim of conserving, maintaining or establishing soil, vegetation cover and desirable hydrological regimes;
- (d) such other codes as may be required for safety.

(5) Any such code, standard or practice as is mentioned in this section may incorporate by reference standards set by any association or body, as those standards may exist from time to time, without the need to re-establish the code, standard or practice to incorporate any revisions to any such incorporated standards.

(6) For the purposes of this Part, “alteration” includes, in relation to a building or structure, a change which may affect its structural or safety properties, its character or its internal appearance, including a change of ornamentation, colour or design.

62. (1) Upon the appointment of the Chief Building Officer and the establishment of a building code for Trinidad and Tobago pursuant to section 61—

- (a) the provisions of the Municipal Corporations Act relating to the powers of the Engineer or the Council of a Municipal Corporation to consent to the erection, alteration or demolition of buildings,

Former powers cease upon establishment of building code

Act No. 21 of 1990

Ch. 12. No. 4
1950 ed.

including those provisions respecting the issuance of occupancy certificates; and

(b) the provisions of the Public Health Ordinance relating to the powers of any Local Authority and the Minister of Health to approve—

(i) the construction or extension of buildings;

(ii) the utilization of land for the construction of buildings; and

(iii) the laying out of land into building lots,

shall forthwith cease to have effect.

(2) The Chief Building Officer may with the approval of the Commission and a Local Authority, with respect to the area within the jurisdiction of that Local Authority, authorize one or more of its officers to exercise on his behalf, subject to such appeal to the Chief Building Officer as may be prescribed, any of his powers under this Part and may prescribe the procedure for issuing and method of authentication of any permit, notice or other instrument issued by any such officers.

(3) The authority granted to any officer of a Local Authority under subsection (2) shall be revocable in writing for cause; and no such grant of authority shall prevent the exercise of any power by the Chief Building Officer.

Building and
demolition permits
required

63. No person shall construct, demolish, or cause any building to be constructed or demolished, unless a permit has been issued therefore by or under the authority of the Chief Building Officer.

64. (1) The Chief Building Officer shall issue a permit for construction or demolition of a building except—

Permit to be issued where proposal complies with permission to develop land, building code, and other applicable laws

(a) where the construction or demolition would not be in accordance with the terms and conditions of any permission for the development of land or the building code, or would contravene any other applicable law;

(b) where the application for the permit is incomplete; or

(c) where any fees due are unpaid.

(2) No person shall make a material change or cause a material change to be made to a plan, specification, document or other information on the basis of which a permit was issued without first filing details of such change and obtaining authorization therefor from the Chief Building Officer.

(3) Subject to section 71, the Chief Building Officer may revoke a permit—

(a) where the permit was issued on the basis of incorrect or false information;

(b) where one year after the issue of the permit, the construction or demolition in respect of which the permit was issued has not, in the opinion of the Chief Building Officer, been seriously commenced; or

(c) where the construction or demolition is, in the opinion of the Chief Building Officer, substantially suspended or discontinued for a period of more than one year.

(4) Nothing in subsection (3) prevents the issue of a new permit following the revocation of a permit under subsection (3), provided that all of the conditions of subsection (1) are met.

(5) No person shall develop land or construct or cause to be constructed a building except in accordance with the plans, specifications, documents and any other information on the basis of which a permit was issued or any changes thereto were authorized.

(6) Where the Chief Building Officer issues a building permit, there shall be returned to the applicant one set of the plans, specifications, surveys and other documents filed with the application for the permit, clearly marked with the particulars of the permit issued, and the applicant shall keep at all times all such documents and other prescribed records at the construction site.

Occupancy certificate **65.** (1) Upon the completion of any building or land development in substantial compliance with the terms of a permit, and upon payment of any prescribed fee, the Chief Building Officer shall forthwith issue an occupancy certificate.

(2) Subject to the provisions of subsection (5), no person shall occupy or permit any new building to be occupied unless and until an occupancy certificate has been issued.

(3) Where part of a building undergoing construction can be occupied without endangering public safety, the Chief Building Officer may issue a temporary certificate of occupancy for such part before all work covered by the building permit has been completed.

(4) A temporary certificate of occupancy may contain such terms and conditions and shall be subject to such limitations as the Chief Building Officer considers appropriate and, where no period is specified, shall be valid for ninety days from its date of issue and may be renewed if necessary.

(5) Notwithstanding the provisions of subsection (2), it shall be lawful—

- (a) to occupy a part of a building in respect of which a temporary certificate of occupancy has been issued so long as such occupancy complies with the terms of the temporary certificate of occupancy therefor; and
- (b) to occupy a new building by not more than two caretakers.

66. (1) Subject to section 69, an inspector may, for ^{Inspections} the purpose of inspecting a building or site in respect of which a permit has been issued or an application for a permit has been made, at any time during normal working hours or at any time work is in progress or whenever an imminent threat to safety is perceived, without a warrant, enter in or upon any land or premises being the site or proposed site of building or other operations.

(2) Where any person has contravened any provision of this Part or of the building code, the inspector may issue an order to that person in writing directing compliance with such provision and may require that the provisions of such order be carried out forthwith or within such time as the inspector specifies in the order.

(3) An order made under this section shall contain sufficient information to identify the nature of the contravention and its location.

(4) Where an inspector makes an order under this section, a copy thereof may be affixed to the site of the construction or demolition, and no person except the inspector or the Chief Building Officer shall remove such copy unless authorized by the inspector or the chief official.

(5) Where an order to cease construction or demolition made by an inspector under this section is not complied with within the period specified therein, the Chief Building Officer may order that all or any part of the construction or demolition, as the case may be, cease, and such order shall be served on the person so contravening and such other persons affected thereby as the Chief Building Officer specifies and a copy thereof shall be posted at the site of the construction or demolition, and no person shall remove such copy unless authorized by the inspector or the Chief Building Officer.

(6) Where an order to cease construction or demolition is made by the Chief Building Officer under subsection (5), no person shall perform any act towards the construction or demolition of the building other than such work as is necessary to carry out the order of the inspector made under subsection (2).

Order not to cover, or
to uncover

67. (1) An inspector or Chief Building Officer may issue an order prohibiting the covering or enclosing of any part of a building or infrastructure work pending inspection, and where such an order is issued, an inspection shall be made within a reasonable time which shall in no event exceed two weeks after notice is given by the person to whom the order is issued that such part of the building is ready for inspection.

(2) Where the Chief Building Officer has reason to believe that any part of a building or infrastructure work has not been constructed in compliance with this Part, and such part of the building has been covered or enclosed contrary to an order made by an inspector or Chief Building Officer under subsection (1), the Chief Building Officer may order any person responsible for the construction to uncover that part at his own expense for the purpose of inspection.

(3) Subsections (4), (5) and (6) of section 66 apply to an order made under this section.

68. (1) Subject to section 69, an inspector may at any time during normal working hours or while work is in progress or whenever an imminent threat to safety (whether human or environmental) is perceived enter in or upon any land or premises without a warrant for the purpose of inspecting any building to determine whether such building is unsafe. Powers respecting unsafe buildings

(2) Where an inspector finds that a building is unsafe, he may serve upon the owner and each person apparently in possession of the building an order in writing setting out the reasons why the building is unsafe and the measures that the inspector requires to be taken in order to render the building safe, and the order may require that such measures be carried out within such time as the inspector specifies therein.

(3) Where an order of the inspector made under subsection (2) is not complied with within the time specified therein or, where no time is specified, within a reasonable time in the circumstances—

- (a) the Chief Building Officer may, by order, prohibit the use or occupancy of the building, and such order shall be served on the owner and each person apparently in possession of the building and such other persons affected by such order as the Chief Building Officer may determine; and
- (b) a copy of the order shall be posted on the building, and no person except an inspector or the Chief Building Officer or a person authorized by one of them shall remove such copy.

(4) Where a Chief Building Officer has made an order under subsection (2) or (3) and considers it necessary for the safety of the public, the Chief Building Officer may cause the building to be renovated, repaired or demolished for the purpose of removing the unsafe condition or may take such other action as he considers necessary for the protection of

the public, and the cost of the renovation, repair, demolition or other action may be recovered from the owner of the building and constitutes a charge against the land in priority to any other secured interest except rates and land and building taxes.

Powers of inspector

69. (1) For the purposes of an inspection under section 66 or 68, an inspector may—

- (a) require that the drawings and specifications of a building or any part thereof, including any drawings prescribed by the regulations, be produced for inspection and may require information from any person concerning any matter related to such building or part thereof;
- (b) be accompanied by any person who has special or expert knowledge of any matter in relation to the building or part thereof;
- (c) make such examinations, tests and inquiries or take such samples or photographs as are necessary for the purposes of the inspection; and
- (d) order any person responsible for the construction of the building to supply at his own expense such tests and samples as are specified in the order.

(2) Where an inspector takes any sample pursuant to subsection (1)(c), a copy of any report on the sample shall be given to the person from whom the sample was taken.

(3) An inspector shall not enter any room or place actually being used as a dwelling without the consent of the occupier except under the authority of a warrant.

(4) If a Magistrate or Justice is satisfied by information on oath that there is reasonable ground for supposing that—

- (a) any building or land referred to in section 66 presents an imminent threat to safety; or
- (b) that any work performed or any condition existing in such building or land contravenes the provisions of this Part or the Building Code,

he may grant a search warrant to any inspector named therein.

(5) A search warrant granted under this section shall authorize the inspector named therein to enter the building or land at any time of any day within one month from the date thereof, if need be accompanied by a constable and assistants and by force, to inspect the building or land, and exercise any or all of the powers conferred by subsection (1) respecting the premises.

70. (1) The Chief Building Officer may review and amend, rescind or confirm an order made by an inspector under this Part.

Review by Chief Building Officer

(2) The Chief Building Officer may exercise any of the powers or perform any of the duties of an inspector under this Part.

71. (1) Where there is dispute between—

- (a) an applicant for or the holder of a permit, or a person to whom an order is given under any of sections 66 to 69; and
- (b) the Chief Building Officer or an inspector,

Appeals respecting building code and permit matters

with respect to the technical requirements of the building code or as to whether there has been sufficient compliance with such technical requirements, any party to the dispute may appeal to the Commission.

(2) The Commission may determine any appeal made under subsection (1) on the basis of written submissions alone, or in the absolute discretion of the Commission, may appoint a person as a hearing officer to conduct a hearing and submit a report thereon for the Commission's decision.

(3) Where the Commission appoints a person to conduct a hearing under subsection (2), the hearing officer shall appoint a time and place for the hearing and give the parties to the dispute notice thereof, and the Commission, after having considered the report of the hearing officer, shall by order determine the dispute.

(4) An order made by the Commission determining a dispute under this section is final.

When stay of order
granted

72. The commencement of—

- (a) an appeal under section 71; or
- (b) a request to the Chief Building Officer to review and amend or rescind an order made by an inspector under section 70,

shall not automatically operate as a stay of the order or decision made, but the Commission or Chief Building Officer may grant a stay pending the determination of the matter, provided that no stay shall be granted if it may result in—

- (c) danger to the health or safety of any person;
- (d) impairment or serious risk of impairment of the quality of the environment for any use that can be made of it; or
- (e) injury, damage or serious risk of injury or damage to any property or to any plant or animal life.

PART VI

LISTING OF PROFESSIONALS, EXPEDITION OF CONSTRUCTION
APPROVALS AND CO-ORDINATION OF DEVELOPMENT APPROVALS**73. For purposes of this Part—**

Interpretation

“agency” means any Ministry, central or local authority, agency or official required to give an approval for, or whose mandate may affect the commencement, implementation, completion or certification of any development of land;

“approval” means any approval, certificate, permit or license required to be issued under this Act or under any other written law of general application without which any development of land that is permitted under this Act cannot lawfully commence, proceed or be completed;

“approval submission” means the form of application together with such plans, drawings, surveys, maps, diagrams and other information and such fees as any agency may require in order to issue any approval;

“listed professional” means a registered professional entitled to be named in a list furnished to an agency in accordance with section 76 conveying that such registered professional is competent to certify whether any approval submission provided in respect of any proposed development meets the mandatory requirements of the agency;

“mandatory requirements” means any requirements fixed by statute, regulation, ordinance, order of general application or published policy statement, and includes

the provisions of any codes incorporated by reference in any of the forgoing as being the requirements for any approval, but does not include matters within the discretion of any agency;

“registered professional” means—

- (a) an architect registered under the Architecture Profession Act;
- (b) an engineer registered under the Engineering Profession Act;
- (c) a Trinidad and Tobago Land Surveyor registered under the Land Surveyors Act;
- (d) an urban and regional planner who is a full corporate member of the Trinidad and Tobago Society of Planners; or
- (e) a member of such other profession as may be prescribed by regulation;

“professional certificate” means a certificate attached to an approval submission in which a registered professional certifies that—

- (a) the registered professional—
 - (i) is listed pursuant to section 76 with the agency and continues to be fully qualified for such listing;
 - (ii) has discharged the obligations imposed by section 77 in respect of the approval submission; and
 - (iii) has personally examined the approval submission; and
- (b) the approval submission complies with the mandatory requirements for approval.

“simple plans” means plans for—

(a) the construction under normal environmental conditions of—

(i) a single family residential building;

(ii) a building comprising multiple residential units, or

(iii) a general purpose building,

of three hundred square-metres or less; and

(b) land subdivision layouts of less than twenty lots where each plot measures one thousand square metres or less.

74. The governing board or council of the professional organization for each body of registered professionals shall consult with every relevant agency and fix minimum levels of professional competence required for the preparation of such categories of applications for approval of proposed building or other development as may be appropriate.

75. Each professional organization shall, upon the application of any member of such profession, determine whether the member satisfies the requirements fixed under section 74 and shall give or withhold certificates of competence accordingly and give written notice to every concerned agency of the name and address and particulars of the certificate of competence given to each qualified registered professional who meets the minimum levels of competence fixed pursuant to section 74.

76. (1) The governing Board or Council of each professional organization referred to in section 74 shall, not later than 1st March in each year, cause to be prepared a list showing the names and addresses of all persons to whom the professional organization has

given certificates of competence, the categories of applications for approval to which any such certificate applies, and the limitations or restrictions, if any, to which the certificate is subject.

(2) The secretary of each professional organization shall—

(a) send a copy of such list to—

(i) any agency concerned with approval of the technical matters in relation to which the professional organization has given a certificate of competence;

(ii) the Commission;

(b) cause the list to be published in the *Gazette*.

(3) For the purpose of keeping the list up-to-date, the secretary of each professional organization shall forthwith notify the Commission and every agency referred to in subsection (2) of any additions or deletions required to be made to such list and shall also cause notice of all such additions or deletions to be published in the *Gazette* within one month of their having been made.

Continuing
obligations of listed
professionals

77. A listed professional shall—

(a) file and maintain with any agency with which he is listed proof of financial responsibility as evidenced by a policy of professional liability insurance, or the posting of a performance bond, or the provision of other financial guaranties acceptable to the Commission, in an amount sufficient to satisfy his obligations under this Part or in such amount as may be prescribed;

- (b) keep himself informed, on an ongoing basis and for so long as he is listed, with respect to the current mandatory requirements of the agency; and
- (c) consult with the agency and its staff, and bear in mind the views of the agency in all circumstances where, to the knowledge of the listed professional, a question has arisen as to whether the mandatory requirements of the agency have been satisfied.

78. (1) Where, due to his refusal or inability to ^{Removal from list upon agency complaint} comply with any mandatory requirements of the agency, or the failure of a listed professional to honour the obligations imposed by section 77 or for any other proper reason, an agency considers it expedient to terminate the approval submission privileges accorded under section 83 to the listed professional, the agency shall by written complaint request the relevant professional organization to remove the name of the registered professional from the list mentioned in section 76 or from such part of the list as relates to that agency's mandate or jurisdiction and the professional organization shall invite the registered professional to show cause why his name should not be so removed and may institute appropriate investigations and convene a hearing in accordance with its rules of discipline.

(2) If, after hearing, it is found that the complaint of the agency is established and the registered professional shows no sufficient reason for deciding otherwise, his name shall be removed from the list of registered professionals qualified to certify approval submissions for the agency that complained.

Termination of
listing

79. The listing of a registered professional with an agency shall be terminated upon—

- (a) the death, or retirement from the profession of the registered professional, or upon the registered professional's ceasing to be a member in good standing or a licensee of the professional organization which caused his name to be listed with the agency;
- (b) the written request of the registered professional that his name be removed from the list furnished to such agency pursuant to section 76;
- (c) a decision by the professional organization, after notice and hearing, that the registered professional is no longer qualified to be listed with the agency due to a lack of knowledge of or inability to work with the mandatory requirements of the agency, or due to the failure of the registered professional to honour the obligations imposed by section 77; or
- (d) lapse, cancellation or other impairment of any professional liability insurance coverage notified to the agency or other financial guarantee provided pursuant to section 77(a) for the purpose of guaranteeing due performance of the obligations of the listed professional in accordance with this Part,

and upon any such termination the professional organization shall so notify the Commission and any agency concerned.

Register of listed
professionals

80. The Commission shall maintain a comprehensive register of all listed professionals, showing each agency with which every such professional is listed and the category of application in relation to which he has been given a certificate of competence as well as any limitations or restrictions to which such certificate is subject.

81. (1) Except for simple plans, every plan for building construction or land development shall be prepared and submitted to the appropriate agency by a registered professional. Restrictions on submission of complex applications

(2) Every plan must be stamped with the name and address of the registered professional under whose professional certificate any approval submission is made and must be signed by such professional.

(3) Supporting documents, sketches, calculations and like material must be stamped with the name and address of the registered professional or must be similarly authenticated.

82. Where permission to develop land or to construct a building has been granted under Part IV, but development of land cannot lawfully proceed without the approval of one or more agencies, each such agency shall— Time for granting or refusing approvals

- (a) grant or refuse its approval within thirty days of receiving the required submission for approval; or
- (b) provide the Commission, the Chief Building Officer, the applicant and any planning authority having jurisdiction in the matter with a written report with respect to any outstanding requirements or concerns to which the agency's approval may be subject within thirty days of receiving the submission for approval.

83. (1) For the purpose of expediting the determination of applications for the development of any land or buildings, where it is determined that specialist or technical details in any application for development approval must be approved by other agencies, an agency may permit a listed professional to undertake distribution of the approval submission to such other agencies, if the approval submission is made under the professional certificate of the listed professional. Expedition of circulation of applications

(2) Where a listed professional assumes responsibility for circulation of any approval submission pursuant to subsection (1), he shall submit all plans and documentation in the manner prescribed in section 69 to the specified specialist or technical agencies and shall pursue and obtain all necessary approvals and furnish evidence of such approvals to any agency that requests them.

(3) Every set of each approval submission submitted to each agency shall have attached thereto a professional certificate signed by the listed professional.

(4) A professional certificate under this Part shall be in the form of Form 1 in the Third Schedule.

(5) The Commission or any planning authority exercising powers under Part IV may undertake the circulation of approval submissions referred to in subsection (1) in lieu of permitting the listed professional to do so, and may circulate such submissions by electronic means and, in order to facilitate such circulation or to expedite the work of the Commission or such authority, may require the applicant to submit the approval submission in such electronically readable form as the Commission or the planning authority may specify.

Reliance on professional certificate (generally)

84. An agency may rely on the professional certificate of a listed professional and, where all discretionary requirements associated with the approval submission have been satisfied, may, as the agency considers proper, issue either a preliminary or a final approval of the approval submission on the basis of such professional certificate.

Issue of building permit in reliance on professional certificate

85. (1) Where permission to develop land or construct a building has been granted under Part IV and the approval of technical details by specialist

agencies is required, the Chief Building Officer may issue a building permit in reliance on the professional certificate of a listed professional and allow construction to proceed if—

- (a) not less than thirty days have elapsed after submission of the approval submission to all relevant agencies; and
- (b) two weeks' notice of intended start of construction has been given to any agency that has neither granted its approval nor issued a report under section 82 (b).

(2) A building permit issued under subsection (1) shall show on its face that the building permit is issued in reliance on the professional certificate of the listed professional.

86. (1) Nothing in section 85 diminishes the authority of any agency to require that plans or specifications submitted on any application conform with the mandatory standards of such agency or removes any requirement for ultimate approval of any related work to be evidenced by the issuance of an occupancy certificate under section 65 or by such other approval document as is provided by any agency. Effect of permit issued under section 85

(2) Notwithstanding that any work was performed in accordance with the terms of a building permit issued under section 85, an agency may take all steps necessary to ensure that—

- (a) the plans or specifications filed in connection with the related approval submission are revised or amended so that said plans or specifications conform with the agency's mandatory standards and with any discretionary requirements associated with said approval submission and, thereafter, the agency's approval of such plans and specifications is signified in writing; and
- (b) any work that was performed in reliance on such building permit and does not

comply with the agency's mandatory standard is altered and made to conform with the approved plans and the agency's mandatory standard at the cost of the listed professional.

Special building
permits issued under
secure arrangements

87. (1) Where permission to develop land has been granted under Part IV, and the applicant is unable or unwilling to satisfy the outstanding requirements specified in any written report referred to in subsection 82(b), and applies to the Commission, the Commission—

- (a) shall confer with the agency which provided the report;
- (b) may require the applicant, at the expense of the applicant, to provide a report on the matter in issue prepared by any professional satisfactory to the Commission; and
- (c) may require the applicant to post a bond or other financial security satisfactory to the Commission in order to provide sufficient assurance that any issue raised by the agency or the professional will be resolved to the Commission's satisfaction,

and, upon such security having been given, the Commission may instruct the Chief Building Officer to issue a building permit notwithstanding the absence of the approval of the agency that provided the report.

(2) Notwithstanding the provisions of any other written law of general application, an instruction by the Commission pursuant to subsection (1)(c) and the permit issued pursuant to that instruction constitute full legal authority for the carrying out of the development in accordance with the plans, specifications and conditions mentioned in such permit.

Statements
supporting
occupancy
certificates

88. In determining the quality and status of any work for the purpose of issuing an occupancy certificate or other document signifying approval of such work, an

agency may rely on the written statement of a listed professional as to the adequacy of the work and its conformity to the plans and specifications approved therefor.

89. The Commission may, after consultation with an agency and any relevant professional organization, by Order, fix the minimum amount of any performance bond or other financial guarantee required to be shown in respect of the professional certification of approval submissions by a listed professional for all or any categories of applications recognized by the agency for the purposes of section 74. Fixing of quantum of bonds, etc., for listed professionals

PART VII

ESTABLISHMENT AND JURISDICTION OF PLANNING AND DEVELOPMENT APPEALS BOARD

90. (1) A tribunal to be known as the Planning and Development Appeals Board is hereby established for the purpose of exercising the jurisdiction conferred upon it by this Act or by any other written law. Board established

(2) The Board shall consist of a Chairman and such other members, including a Deputy Chairman, as may be appointed under or in pursuance of section 91(2).

(3) The Board shall have an official seal which shall be judicially noticed.

(4) The Board shall have jurisdiction to hear and determine appeals against certain planning decisions more particularly identified at sections 94 and 95 below.

91. (1) The Board shall be comprised of a Chairman, and six other members including a Deputy Chairman each of whom may be appointed to serve in a full-time, part-time or periodic capacity as may be required to fulfill the objects of this Act. Constitution of Board

(2) The Chairman and Deputy Chairman of the Board shall each be an attorney-at-law of not less than ten years standing, and shall be appointed by the President.

(3) The members of the Board, other than the Chairman and Deputy Chairman, shall be appointed by the President from among such persons as appear to the President to be qualified by virtue of their knowledge of or experience in public administration, town and country planning, architecture, chartered surveying, environmental issues, engineering, the natural sciences, or the social sciences.

(4) All members of the Board shall hold office under such requirements and conditions of service and for such term, not less than three years, as may be determined by the President and set forth in the terms of reference at the time of their appointment, and shall be eligible for reappointment.

(5) Notwithstanding that his term of office has expired, any member of the Board may, with the permission of the President acting on the advice of the Chairman of the Board, continue in office for such period after the expiry of his term as may be necessary to deliver judgment, or to do any other thing in relation to proceedings that were commenced before such member prior to the expiry of his term of office.

(6) Any member of the Board may, at any time by notice in writing to the President, resign his office.

(7) The President may remove from office any member of the Board for inability, misbehaviour, or on the ground of any employment or interest which is incompatible with the functions of a member of the Board.

(8) Where, through illness or other reason any member of the Board is unable to act, or where his office is vacant, the President may appoint a person to act in the stead of such member during his illness, or incapability, or until the vacancy is filled, as the case may be.

(9) No defect in the qualification or appointment of any member of the Board shall vitiate its proceedings.

(10) A Registrar of the Board and such other officers, clerks and employees as may be required to carry out the business of the Board shall be appointed in the manner authorized by law.

92. (1) There shall be paid to each member of the Board, and to any person appointed to act in or perform the functions of a member of the Board, such salary or remuneration and such allowances as may be prescribed by Order of the President, and any such salary, remuneration or allowances shall be a charge on the Consolidated Fund. Salaries, allowances, conditions of service

(2) Such other conditions of service shall be applicable to the Chairman, Deputy Chairman and other members of the Board as may be prescribed by Order of the President.

93. (1) The jurisdiction and powers of the Board may be, exercised by the Chairman or the Deputy Chairman, and two other members selected by the Chairman or Deputy Chairman, as the case may be, for the purpose of any case or proceeding which may be brought before the Board. Procedure and privileges of Board

(2) Notwithstanding subsection (1), the jurisdiction of the Board may be exercised with respect to—

- (a) any matter, by the Chairman or Deputy Chairman sitting alone or with one other member if the parties consent thereto;
- (b) any matter of practice or procedure that is contested by the parties, by the Chairman or Deputy Chairman or any member of the Board who is an attorney-at-law and is assigned for that purpose by the Chairman of the Board; and
- (c) any matter of practice or procedure which is uncontested by the parties, by any

member of the Board assigned generally or specifically for that purpose by the Chairman of the Board.

(3) Subject to any rules which may be made under this section, the Board may sit in more than one division at such times and in such places in any part of Trinidad and Tobago as may be most convenient for the determination of proceedings before it.

(4) Unless rules made under this section otherwise provide, fourteen clear days' notice shall be given to the appellant and to the respondent of the date fixed for the hearing of a matter by the Board.

(5) The Chairman of the Board, when present, shall preside, and, in the absence of the Chairman, the Deputy Chairman shall preside.

(6) Any appellant, complainant, or respondent may appear before the Board in person or be represented by an attorney-at-law or other person acceptable to the Board.

(7) The Board, as respects the attendance and examination of witnesses, the production and inspection of documents, the enforcement of its orders, the entry on and inspection of property, and other matters necessary or proper for the due exercise of its jurisdiction, shall have all such powers, rights and privileges as are vested in the High Court of Justice on the occasion of an action.

(8) A summons signed by the Registrar of the Board shall have the same force and effect as any formal process capable of being issued in any action taken in the High Court for enforcing the attendance of witnesses and compelling the production of documents.

(9) A member of the Board has, in the performance of his duties as a member, the same protection and immunity as a Justice of the High Court.

(10) An attorney or other person appearing before the Board on behalf of a party has the same protection and immunity as an attorney has in appearing for a party in proceedings in the High Court.

(11) Subject to this Act, a person summoned to attend or appearing before the Board as a witness has the same protection and is, in addition to the penalties provided by this Act, subject to the same liabilities in any civil or criminal proceedings as a witness in proceedings in the High Court.

(12) In any matter before the Board, the Board may order that written arguments and a citation of authorities be submitted to the Board in addition to or, with the consent of the parties, in place of an oral hearing.

(13) The decision of the Board shall be that of the majority of the members present, but the opinion of the presiding member shall prevail on any matter arising in the course of any proceeding which, in his opinion, is a question of law.

(14) The decision of the Board in any proceeding shall be delivered by the presiding member and any member may provide a concurring or dissenting opinion to such decision.

(15) The Board may, subject to the approval of the President, make rules not inconsistent with this Act governing the carrying on of the business of the Board and the practice and procedure in connection with appeals to the Board and other proceedings, and the regulating of any matters relating to the cost of proceedings before the Board.

(16) Where any member of the Board has, or might reasonably be perceived to have an interest in respect of any matter coming before the Board, whether such interest is direct or indirect or arises because of a potential financial interest or an immediate family relationship, the member shall make a declaration of

such conflict of interest and shall take no part, directly or indirectly, in any deliberation, discussion, consideration, decision or determination of the Board on that matter, and the Registrar shall record such declaration.

(17) The presiding member may, subject to the rules of the Board and to this Act, determine the procedure to be followed in any appeal or other proceeding.

Jurisdiction of Board

94. (1) Subject to the provisions of this Part, any person specified in subsections (3), (4) or (5) may appeal to the Board against such orders, notices, decisions or other determinations of the Commission or a planning authority as are specified in those subsections, within the times, in the circumstances, and on the grounds therein set forth.

(2) An appeal to the Board shall be made by notice in writing to the Board and to the person or body that made the order, notice, decision or other determination complained of, and such notice shall indicate—

- (a) the portion of the order, notice, decision or other determination in respect of which the hearing is requested;
- (b) the specific grounds on which the applicant intends to rely; and
- (c) the facts on which the appeal is based.

(3) Any applicant for permission to develop land or for permission to retain or continue any unauthorized development or use of land is entitled to appeal, within forty-two days of the date on which the determination objected to was delivered or served, respecting—

- (a) any condition subject to which permission to develop land or to retain or continue an unauthorized development or use of land has been granted; or

- (b) any refusal of permission to develop land, or outline development approval, or permission to retain or continue any unauthorized development or use of land,

and the Board, in making its decision, shall take into account those matters referred to in subsections (1), (2) and (3) of section 40.

(4) Any owner or occupier of land, or any other persons with a financial interest in the land is entitled to appeal within forty-two days of the date on which the order or notice objected to was delivered or served, respecting—

- (a) any order to revoke or modify any permission to develop land, including the modification of any condition to which such permission is subject;
- (b) any development completion notice,

on the grounds that the order to revoke or modify the permission to develop land or the development completion notice should not, on planning grounds, have been made, or that the time provided for completion was unreasonable in the circumstances, as the case may be.

(5) An applicant for consent to display advertisement, and any person on whom a building preservation order, a tree preservation order or an order to take steps to abate any injury to amenity as provided in the Second Schedule has been served is entitled to appeal within forty-two days of the date on which the determination or order objected to was delivered or served, respecting—

- (a) any refusal of consent to display the advertisement;
- (b) any condition subject to which such consent has been granted;
- (c) the building or tree preservation order; or
- (d) the order to take steps to abate an injury to land.

(6) The Board shall, in respect of every appeal, decide—

- (a) that the objection of the applicant to the order, notice, decision or other determination in question should be allowed in whole or in part, and that the order, notice, decision, or determination should be reversed, varied or withdrawn; or
- (b) that the objection of the applicant to the order, notice, decision or other determination in question should be rejected and that the order, notice, decision or other determination should be confirmed.

Appeals to Board
from environmental
repair order,
immediate
compliance order or
compliance notice

95. (1) Subject to the provisions of this Part, any person specified in subsection (3) may appeal to the Board from such orders, notices, decisions or other determinations specified in that subsection, within the times, in the circumstances and on the grounds set forth in that subsection.

(2) An appeal to the Board shall be made by notice in writing to the Board and to the person or body making the order, notice, decision or other determination complained of, and such notice shall indicate—

- (a) the portion of the order, notice, decision or other determination in respect of which the appeal is brought;
- (b) the specific grounds on which the applicant intends to rely; and
- (c) the facts on which the application is based.

(3) Any person on whom an immediate compliance order, a compliance notice or an environmental repair order has been served is entitled to appeal within the period specified therefor in the order or notice, or such extended period as the Board may permit, against the requirements set forth in the order or notice.

(4) Any appeal under this section shall be based on one or more of the following grounds only:

- (a) that the compliance notice ought to be stayed pending the disposition of an application to retain or continue any unauthorized development or use of land under section 54, or stayed on any other proper ground;
- (b) that any other notice or order ought to be stayed on any proper ground;
- (c) that factual matters are not as alleged or implied in the notice or order;
- (d) that the matters alleged in the compliance notice do not constitute breach of planning control; and
- (e) that, on planning grounds—
 - (i) the steps required to be taken by the notice exceed what is reasonably required to remedy any breach of planning control; or
 - (ii) the period specified for compliance with the notice falls short of what should reasonably be allowed.

(5) The Board shall decide whether the order or notice under appeal should be confirmed, altered or revoked and a decision of the Board under this section is final.

96. (1) The Board may extend the period during which a person is permitted to give notice of appeal, where, in the opinion of the Board, it is just to do so because service of the order, notice, decision or other determination, as the case may be, on the person (through no fault of the person) did not in the circumstances give the person actual notice of such order, notice, decision or other determination, or on any other ground that appears just.

Manner of hearing
appeals

(2) Decisions of the Board shall be accompanied by full and clear written reasons, which shall be recorded in a register and be accessible to the public at all reasonable hours.

(3) All hearings by the Board shall be open to the public but the Chairman of the hearing may expel from any hearing any person who is guilty of improper conduct at the hearing.

(4) Any defect, informality or error contained in any order, notice, decision or other determination may be corrected if the correction can be made without substantial injustice to the appellant, and where an appellant alleges any such defect, informality or error, the Board shall note the allegation and determine whether to make such correction.

(5) The procedures of the Board may be informal and where an appeal has been made to the Board, the Board may—

- (a) require the appellant to provide, at the expense of the appellant, notice of the appeal to persons owning or occupying lands in the vicinity of the lands to which the appeal relates by publication in a newspaper or in any other manner;
- (b) allow any person interested in the matter which is the subject of the appeal (including but not limited to any owner or occupier of neighbouring land) to give evidence and make oral or written representations before the Board makes any decision; and
- (c) inquire into any matter and receive any representations or submissions in writing or orally, as the Board in its discretion, deems appropriate, but nothing in this section shall prevent the Board from conducting a hearing on any matter, as it sees fit.

(6) On the hearing of an appeal by the Board, except with leave of the Board, an appellant is not entitled to challenge any portion of the order, notice, decision or other determination appealed against nor to rely on any ground not stated in the notice of appeal.

(7) The filing of a notice of appeal shall not stay the carrying out of any requirement set forth in any order, notice, decision or other determination, nor any requirement that development of land cease, nor the provisions of an environmental repair order or immediate compliance order but, subject to subsection (8), the Board may order a stay upon appropriate terms and, in the case of a stay granted on the grounds set out in section 95(4)(a), the hearing of the balance of the appeal may be adjourned until the disposition of an application to retain or continue unauthorized development or use of land under section 54.

(8) Notwithstanding subsection (7), no stay may be granted by the Board in respect of an immediate compliance order or an environmental repair order, or any other order, notice, decision or other determination if such stay may result in—

- (a) danger to the health or safety of any person;
- (b) impairment or serious risk of impairment of the quality of the environment for any use that can be made of it; or
- (c) injury, damage or serious risk of injury or damage to any property or to plant or animal life.

97. (1) No court shall order any damages payable to any appellant who has been successful or partially successful in an appeal against an immediate compliance order, a compliance notice or an environmental appeal order, but the Board shall have sole and exclusive jurisdiction to decide whether any compensation, representing actual loss suffered by such appellant, ought to be paid, and the Minister shall give effect to the decision of the Board.

Compensation for
immediate
compliance order or
compliance notice

(2) In considering whether compensation ought to be paid, the Board shall determine whether, in its view—

- (a) any environmental hazard existed or was reasonably believed to exist at the time that an environmental repair order was issued;
- (b) the requirements contained in an environmental repair order exceeded what was reasonably necessary to prevent or limit the environmental hazard in question or restore the environment;
- (c) reasonable grounds existed for the issue of the immediate compliance order or compliance notice; or
- (d) the requirements contained in the immediate compliance order or compliance notice were reasonable, having regard to the provisions of this Act prescribing the circumstances in which any such order or notice may be issued.

(3) Where the Board determines that—

- (a) no environmental hazard existed or could reasonably have been believed to exist at the time the environmental repair order was issued;
- (b) the requirements of the environmental repair order exceeded what was reasonably necessary to prevent or limit the environmental hazard in question or to restore the environment; or
- (c) there were no reasonable grounds for the issue of the immediate compliance order or compliance notice or, having regard for the provisions of this Act prescribing the circumstances in which any such order may be issued and the facts found by the Board, the requirements stated therein were unreasonable,

the Board may decide whether compensation should be paid to the applicant and the extent of any such compensation.

(4) For greater certainty, notwithstanding any determination by the Board respecting the matters mentioned in paragraphs (a), (b) and (c) of subsection (3), the Board may, in its unfettered discretion, decide that it is not appropriate to award compensation.

(5) Notwithstanding subsection (3), compensation shall not be awarded by the Board where, in the opinion of the Board, the issue of the environmental repair order or immediate compliance order and the measures required thereby were reasonable on the basis of the information available to the Commission at the time, regardless of whether subsequent information and events might have led the Board to a contrary conclusion.

(6) In assessing the amount of any compensation, the Board shall have regard to—

- (a) the measures and costs that the applicant or the applicant's successors may reasonably be expected to take or incur during the life of the development for the purposes of complying with planning controls or preventing or eliminating any environmental hazard for future inhabitants of the development or the vicinity of the development; and
- (b) any benefits or savings in costs which may accrue to the applicant or the applicant's successors as a result of any measures actually undertaken, whether or not the requirement for such measures is found by the Board to have been justified.

98. (1) The Commission, a Planning Authority or a person entitled to appeal to the Board under section 94 or 95 may, with the leave of a Judge of the Court of Appeal or upon the certificate of the Board that the case is a proper case for appeal, appeal a decision of the Board to the Court of Appeal on a question of law.

(2) Where a Judge of the Court of Appeal refuses leave to appeal under subsection (1), the appellant may, by filing notice in writing with the Court of Appeal within seven days of such refusal, have the application for leave to appeal determined by the Court of Appeal.

(3) On an appeal, the Court of Appeal shall ignore any informality, defect or error in any order, notice, decision or determination which gave rise to the appeal or in the service thereof if it is satisfied that the informality, defect or error did not prevent the appellant from being informed of the substance of the matters in issue or that no substantial injustice was caused to the appellant.

Board to report on trends

99. The Board shall, in the context of appeals of planning decisions, take note of any trends or recurring situations, and, at least once a year, the Board shall report to the Parliament thereon and on the volume and progress of its work, and in such report the Board may suggest the review and modification of any development plan, as it sees fit, and such reports shall be available to the public.

PART VIII

SUPPLEMENTAL

Powers of entry

100. (1) Any person duly authorized in writing by the Minister or the Commission, and any inspector or Chief Building Officer exercising powers under section 67 or 70 may, at any reasonable time, enter upon any land for the purpose of the inspections authorized by those sections or the purpose of surveying such land or estimating its value, in connection with—

- (a) the preparation, approval or amendment of a development plan relating to the land under Part III, including carrying out any survey under that Part;
- (b) any application under Part IV for any permission, consent or determination to be given or made in relation to that land or any other land to which Part IV applies;

- (c) any proposal by the Minister, the Commission, or a planning authority to serve or make any notice or order under Part IV;
- (d) any claim for compensation payable by the Minister under this Act; or
- (e) any requirement for acquisition of land under this Act.

(2) A person authorized under this section to enter upon any land shall, if so required, produce evidence of his or her 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) Any person who wilfully obstructs a person acting in the exercise of the powers conferred by this section is liable on summary conviction to a fine of one thousand dollars.

(4) Any person who in compliance with the provisions of this section is admitted into a factory, workshop or workplace and subsequently discloses to any person any confidential information obtained as a result with respect to any manufacturing process or trade secret is, unless the disclosure is made in the course of performing a duty connected with the survey or estimate in question, liable on summary conviction to a fine of five thousand dollars or to imprisonment for a term of three months.

(5) Where any land is damaged in the exercise of a power of entry conferred by this section, or in the making of any survey for the purpose of which any such power of entry has been conferred, compensation in respect of that damage may be recovered from the Minister, the Commission, or the planning authority, as the circumstances warrant, by any person interested in the land.

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

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

Service of notices

101. (1) Subject to this section, any order, notice or other document required or authorized to be served, given or delivered under this Act may be served, given or delivered—

- (a) by personally delivering it to the person on or to whom it is to be served, given or delivered;
- (b) by leaving it at the usual or last known place of abode of that person, or, in a case in which an address for service has been furnished by that person, at that address;
- (c) by sending it by prepaid registered post addressed to the person at that person's usual or last known place of abode, or, in a case in which an address for service has been furnished by the person, at that address;
- (d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at the registered or principal office of the company or body, or by sending it by prepaid registered post addressed to the secretary or clerk of the company or body at that office; or
- (e) where a facsimile phone number has been provided by a person, by a facsimile transmission which provides confirmation of receipt.

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

- (a) it is addressed to the person either by name or by the description “the owner of” or “the occupier of” or “any person having an interest in”, as the case may be, the land or premises in question, which land or premises shall be described, and it is delivered or sent in the manner prescribed by subsection (1)(a), (b) or (c); or
- (b) it is addressed to the person as specified in paragraph (a), and it is—
 - (i) sent by prepaid registered post to the land or premises; or
 - (ii) affixed conspicuously to some object on the land or premises.

(3) In any case where an order has been served, notice has been given or a document has been delivered by a means other than personal delivery, it shall be deemed to have been served, given or delivered four days after it was left, mailed or affixed, as the case may be, or if it was sent by facsimile, on the day after it was so sent.

(4) Where any person is subject to penalties for the failure to do or delay in doing anything specified in any order, notice or document, and the order was served, notice was given or document was delivered by a means other than personal delivery, in proceedings to penalize that person, the person may offer evidence with respect to the date or time when the order, notice or document actually came into his possession or, if it did not come into his possession at all, the time when

actual notice of such requirement was received by him, but no such evidence shall be relevant on any issue other than the question of the imposition or quantum of the penalty.

Power to demand
information

102. For the purpose of being able to make any order or serve any notice or other document that the Minister, the Commission or a Planning Authority is by this Act authorized or required to make or serve, the Minister, the Commission or a Planning Authority may require the occupier of any land or premises to state the nature of the interest of that occupier, and may require such occupier and any person who either directly or indirectly receives rent in respect of such land or premises to state the name and address of any other person known to the occupier or person as having an interest in the land or premises, whether as owner, mortgagee, lessee or otherwise; and any person who, having been required pursuant to this section to give any information, fails to do so, or knowingly makes any misstatement in respect thereof, is liable on summary conviction to a fine of two thousand dollars.

Inspection of
documents

103. (1) For the purpose of carrying out any functions required or permitted to be performed by the Minister, the Commission, or any planning authority in accordance with this Act, the Minister, the Commission, or such planning authority may, at any reasonable time, inspect any document, plan or other record relating to any land (including adjacent and contiguous land) and may make copies of such document, plan or other record.

(2) The Minister, the Commission, or a planning authority shall give not less than seven days notice in writing to the person in possession of a document plan or other record, of the intention of the Minister, the Commission or planning authority to inspect such document, plan, or other record and shall, so far as practicable, specify in the notice the nature and purpose of the inspection.

(3) Any person who receives a notice given pursuant to subsection (2) and, without reasonable cause, fails to produce for inspection any document, plan or other record specified in the notice, is guilty of an offence and is liable on summary conviction to a fine of two thousand dollars.

104. (1) The Minister may make grants to any organization or body which appears to the Minister to be principally concerned with encouraging the citizens of Trinidad and Tobago to understand and value the built and natural environment, or with taking active steps to protect and conserve the built and natural environment, in order to assist such organization or body in its work or in the provision of programmes referred to in section 6(3)(e). Promotion of public awareness

(2) The Minister may, as a condition of any grant under subsection (1), require the organization or body which is to receive the grant to—

- (a) prepare a proposal and a budget to show how the organization or body intends to spend the grant; and
- (b) agree to submit accounts at the end of the year in which the grant was made and annually thereafter, showing how the grant was spent.

(3) Where an organization or body in receipt of a grant subject to the conditions specified in subsection (2) fails to comply with those conditions, the Minister may require the organization or body to repay the grant in whole or in part.

105. (1) The Minister may make regulations— Power to make regulations

- (a) for prescribing the form, size and contents of any notice, order or other document authorized or required by this Act to be served, made, issued or affixed to land or buildings;
- (b) with respect to the preparation and content of development plans;

- (c) with respect to the making of applications for permission to develop land and outline applications, including the materials to be filed with such applications and the fees payable in connection therewith;
- (d) with respect to functions which may be performed in areas of special interest;
- (e) with respect to reparcellation areas;
- (f) with respect to the making and granting of permission under interim building preservation orders, building preservation orders, interim tree preservation orders and tree preservation orders;
- (g) with respect to the preparation, content, consideration and acceptance of any environmental impact assessment, and the situations where any such assessment shall be required;
- (h) requiring payment of a fee, prescribing the amount of the fee, and permitting a payment to be made under credit arrangements, with respect to any action required or authorized under this Act;
- (i) requiring any document, permit, drawing, plan, survey, map or other record used for any purpose under this Act to be maintained by any person in possession thereof for such period as may be specified;
- (j) with respect to matters constituting a material change of use within the meaning of section 35;
- (k) with respect to immediate compliance orders, compliance notices and environmental repair orders;
- (l) prescribing activities which shall be engineering operations;
- (m) prescribing any substance or waste as toxic;

- (n) prescribing any material or condition as waste;
- (o) with respect to the subdivision of land;
- (p) for any purpose for which regulations are authorized or required to be made under this Act and, in particular, for prescribing anything that by this Act is required or authorized to be prescribed by regulations.

(2) Regulations made under this Act are subject to negative resolution of Parliament.

106. (1) Any person who—

Offences

- (a) assaults, molests, resists, obstructs, threatens, intimidates or hinders or, interferes with any officer or other person acting under the authority of this Act;
- (b) wilfully destroys or defaces—
 - (i) any official notice or a notice displayed pursuant to this Act (including any device or structure for the purpose of exhibiting the notice) on or attached to any building or other structure or on any land; or
 - (ii) any document, permit, drawing, plan, survey, map or other record required under this Act to be maintained, or neglects or refuses to produce the same when required to do so by any officer or other person acting under the authority of this Act;
- (c) in any application, statement, return of information, or notice submitted pursuant to the provisions of this Act, knowingly supplies false information or information

that is incomplete in any material particular, or neglects or refuses to provide information available to such person and required under this Act;

- (d) fails to display or maintain a notice required to be displayed or maintained in accordance with this Act;
- (e) fails to comply with the provisions of any immediate compliance order or compliance notice or causes or permits a contravention of such order or notice to occur or be continued;
- (f) fails to comply with the provisions of an environmental repair order or causes or permits a contravention of the order to occur or continue;
- (g) fails to comply with any order of an inspector or Chief Building Officer under Part V; or
- (h) contravenes any provision of this Act for breach of which no other penalty is prescribed,

is guilty of an offence and is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for six months, and any director or officer of a corporation who knowingly concurs in the commission of the offence by such corporation is also guilty and subject to the same penalties.

(2) Any person who by any offer of a gratuity, bribe, promise or other inducement, prevents or influences or attempts to prevent or influence the due execution of the duty of any officer or other person acting under the authority of this Act is guilty of an indictable offence and is liable to a fine of twenty thousand dollars and to imprisonment for two years.

(3) Where any offence under this Act is a continuing offence, every person who is guilty of the offence is liable on conviction to the fine provided for that offence for each day or part of a day on which the offence occurs or continues.

(4) The offences and penalties provided for in this section shall be in addition to the expenses recoverable by the Commission or a planning authority in respect of any steps they have taken under section 55 to effect compliance.

(5) No proceeding for an offence under this Act shall be commenced more than one year after the later of—

(a) the day on which the offence was committed; or

(b) the day on which evidence of the offence first came to the attention of the Commission, the planning authority, the Director or the chief building officer,

but nothing in this section prevents the Commission or a planning authority from proceeding to seek compliance under section 55 at any time.

107. (1) In any prosecution for an offence under this Act, a copy of a permission, order, direction, notice or other document purported to have been made under this Act and purported to have been signed by the person authorized by this Act to make the permission, order, direction, notice or other document shall be received into evidence without proof of the signature or authority of the person by whom it purports to be signed, subject to any evidence to the contrary. Evidence, injunctions and prohibition orders

(2) Where any provision of this Act or any direction, order, approval, notice or permit, made, granted, given, served or issued by the Minister, the Commission, a planning authority, the Director, the Chief Building Officer or an inspector is contravened,

in addition to any other remedy and to any penalty imposed by law, such contravention may be restrained by action on the directions of the Minister, the Commission or planning authority.

Application to land regulated by special written laws

108. For greater certainty, it is hereby declared that this Act and any restrictions or powers hereby imposed or conferred in relation to land, apply and may be exercised in relation to any land notwithstanding that provision for authorizing or regulating any development of the land is made by any act, by-law, order, rule or regulation in force at the time this Act comes into operation.

Repeal and transition

109. (1) Where outline planning permission was granted or deemed to have been granted under the former Act it shall, unless such outline planning permission provides otherwise, be deemed to have been granted subject to the condition that application for approval of any matter reserved for subsequent approval must be made not later than the expiration of one year from the commencement of this Act.

Chap. 35:01

(2) The Town and Country Planning Act is hereby repealed.

Act to bind State

110. This Act binds the State.

FIRST SCHEDULE

[Section 5]

Membership of Commission

1. (1) The Commission shall consist of the following persons appointed in accordance with this paragraph:

- (a) a Chairman appointed by the President;
- (b) ten other members drawn from designated disciplines, groups or bodies as follows:
 - (i) one representing non-governmental not-for-profit organizations concerned with the protection of the natural environment;
 - (ii) one representing non-governmental, not-for-profit, community-based organizations;

- (iii) two representing the construction or land development industry and, of the two, one shall represent the interests of building or general contractors and the other finance or development interests;
- (iv) one nominated by the Society of Planners of Trinidad and Tobago;
- (v) two representing land-related or design-related professional disciplines other than physical planning;
- (vi) one representing the professional discipline of socio-economic planning;
- (vii) one representing agricultural development interests; and
- (viii) one representing industrial development interests appointed by the President.

(2) The following other persons shall be *ex officio* members of the Commission:

- (a) the public officer or authority performing the functions of the Commissioner of State Lands under the State Lands Act; Chap. 57:01
- (b) one person representing the Tobago House of Assembly;
- (c) the Director of Planning of the Commission;
- (d) the Chief Technical Officer, Ministry of Works;
- (e) the Director of Planning in the Ministry of Local Government;
- (f) the Director of Economic Research and Planning (Ministry of Housing and Settlements); and
- (g) a representative of the Environmental Management Authority. Act 3 of 1995

(3) The President shall appoint a member of the Commission not being an *ex officio* member to be Vice-Chairman.

(4) Before any person is appointed to the Commission as a member representing building and general contractors, or a professional or other special interest group, persons appearing to be representative of the interests or the institution concerned shall be consulted.

(5) Subject to the provisions of this Act, a member of the Commission shall be appointed for a term not exceeding three years and shall be eligible for re-appointment.

Alternate members

2. (1) The President may appoint, in respect of each member of the Commission, an alternate who shall be qualified for appointment in the same manner as the member to whom he is alternate; and a person so appointed as an alternate, while acting in the absence of the member, shall be deemed to be a member of the Commission and shall enjoy all the powers, rights and privileges and be subject to the duties of the member to whom he is alternate.

(2) In the event of the absence or inability to act of both the Chairman and Vice-Chairman, or both another member and his alternate, the President may appoint any person to act in the place of the Chairman or other member so long as such absence or inability continues.

Temporary membership

3. (1) Whenever the Commission has under consideration a local area plan or scheme wholly or partly within the area of a Local Authority, the Commission shall notify such Authority of the date of the meeting at which such scheme will be considered by the Commission and thereupon the Local Authority shall have the right to delegate two of their members to attend that meeting for the purpose of considering such scheme and to that extent such delegates shall be members of the Commission with the right of deliberating and voting in the same manner as any other member but such delegates shall not count to form a quorum.

(2) The Commission may co-opt any one or more persons to attend any particular meeting of the Commission for the purpose of assisting or advising the Commission, but no such co-opted person shall have any right to vote.

Termination of membership

4. (1) Any member of the Commission other than a person in the service of the Government of Trinidad and Tobago may at any time resign his office by instrument in writing addressed to the secretary thereof who shall forthwith forward the same to the Minister and from the date of the receipt by the secretary of such instrument such member shall cease to be a member of the Commission and the vacancy caused by such resignation or by the death of a member shall be filled by the President by the appointment of another person.

(2) The appointment, removal or resignation of any member of the Commission shall be notified in the *Gazette*.

5. (1) The seal of the Commission may be affixed in the presence of its Chairman or, in the absence of the Chairman, may be affixed before the Vice-Chairman and Secretary. ^{Execution and service of documents}

(2) All documents (other than those required by law to be made under seal) made by and all decisions of the Commission may be signified under the hand of the Chairman or, in the Chairman's absence, the Vice-Chairman or Secretary.

(3) Service upon the Commission of any notice, order or other document shall be effected by delivering the same, or by sending it by registered post addressed to the Secretary, at the office of the Commission.

6. (1) For the transaction of general business, the Commission shall meet as often as may be necessary or expedient for the transaction of business and at such times and places as the Commission may determine. ^{Meetings and procedure}

(2) The Chairman may at any time call a special meeting of the Commission.

(3) An extraordinary meeting shall be summoned by the secretary of the Commission within fourteen days of a requisition for that purpose addressed to him by any three members of the Commission. The requisition shall be in writing and no business other than that specified in the requisition shall be transacted at the extraordinary meeting except by leave of the Commission.

(4) The Chairman shall preside at all meetings of the Commission at which he is present, and in his absence, the Vice-Chairman shall preside. In case of the temporary absence of both the Chairman and Vice-Chairman, the members present and constituting a quorum shall elect a chairman of the meeting from among their number.

(5) At any meeting of the Commission seven members including at least three members who are not *ex officio* members shall form a quorum for the transaction of business. But, where any member of the Commission is disqualified from taking part in any deliberation or decision of the Commission with respect to any matter, he shall be disregarded for the purpose of constituting the quorum for deliberating on or deciding that matter.

(6) All acts of the Commission, and all questions coming or arising before the Commission, shall be done and decided by the majority of such members of the Commission as are present and vote thereon.

(7) In case of an equality of votes, the Chairman of the meeting shall have a second or casting vote.

(8) Minutes of all meetings shall be recorded and kept by the secretary. Copies of such minutes duly confirmed at a subsequent meeting shall as soon as practicable thereafter be forwarded to the Minister.

(9) Subject to the provisions of this Schedule the Commission shall have power to regulate its own proceedings.

Financial year 7. The financial year of the Commission is from the 1st day of January to the 31st day of December.

Funds and resources
of the Commission 8. The funds and resources of the Commission are—

- (a) such sums of money as may from time to time be appropriated by Parliament for the use of the Commission;
- (b) sums borrowed by the Commission for the purpose of meeting any of its obligations or discharging any of its functions;
- (c) dues, charges and fees collectable by the Commission in accordance with this Act and the regulations; and
- (d) all other property to which the Commission may become entitled.

Borrowing powers 9. (1) Subject to subsection (2), the Commission may borrow money required by it for the efficient exercise of its functions and for meeting its obligations.

(2) Borrowing may be effected only with the approval of the Minister as to the amount, the sources of borrowing and the terms and conditions of the loan but aggregate outstanding loans to the Commission shall not exceed the sum of eight hundred thousand dollars or such other amount as may be fixed by resolution of Parliament.

(3) Approval of the Minister under subsection (2) may be either general or limited to a particular transaction and may be either unconditional or subject to conditions.

Investment 10. Money standing to the credit of the Commission and not immediately required to be expended in the meeting of any obligations or commitments may be invested in such manner as the Minister may approve.

Accounts and records
of the Commission 11. (1) The Commission shall cause to be kept proper accounts and records of its transactions and affairs and shall ensure that all payments out of its funds are properly authorized and correctly made and that adequate control is maintained over the incurring of expenditure.

(2) Accounts of the Commission shall be kept in accordance with accounting standards established by the Institute of Chartered Accountants of Trinidad and Tobago.

12. (1) The accounts of the Commission shall be audited annually by the Auditor General. Examination and
audit by Auditor
General

(2) In addition to the annual audit, the Auditor General may at any time audit the accounts and examine the records of financial transactions of the Commission and shall forthwith draw to the attention of the Minister any irregularity disclosed by such audit and examination, which, in the opinion of the Auditor General, is of sufficient importance to be reported to the Minister.

(3) The Commission shall provide the Auditor General with all necessary and appropriate facilities for the examination of the accounts and records.

(4) The Auditor General may make copies of or take extracts from accounts, books or other financial records of the Commission.

13. (1) The Commission shall, not later than the 30th day of June in each year submit to the Minister a report of its operations during the previous financial year, together with financial statements in respect of that year and the Auditor General's report on those statements. Annual report

(2) The report shall give particulars of any directions of the Minister given to the Commission with respect to the exercise of its functions.

(3) Before submitting the financial statements to the Minister, the Commission shall submit them to the Auditor General who shall report thereon, indicating—

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with such accounts and records and fairly show the financial transactions and state of affairs of the Commission;
- (c) whether the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the Commission during the year have been in accordance with this Act; and
- (d) any other matters arising out of the financial statements as, in his opinion, ought to be reported to the Minister.

(4) As soon as practicable after the report and financial statements of the Commission, together with the report of the Auditor General are received by him, the Minister shall cause them to be laid before the Senate and the House of Representatives.

Budget

14. (1) The Commission shall, not later than the first day of July in each year, prepare and submit to the Minister the estimates of revenue and expenditure of the Commission for the next financial year.

(2) Estimates shall be prepared in such form as the Minister may direct.

Bad debts

15. The Commission may, with the approval of the Minister, write off bad debts.

SECOND SCHEDULE

[Section 60]

DEVELOPMENT CONTROL: SPECIAL PROVISIONS

Areas of Special Interest

Areas of special
interest or
significance

1. (1) In this Schedule—

“area of special interest” means any part of Trinidad and Tobago determined, in accordance with the provisions of this Schedule, to be an area of natural, scientific, heritage, historic or aesthetic interest or significance; and

“special plan” means a development plan prepared for an area of special interest.

(2) The Commission may—

(a) cause a survey or report of Trinidad and Tobago or any part thereof to be prepared;

(b) have regard to a survey or report of Trinidad and Tobago or any part thereof prepared by any knowledgeable person, body or authority; or

(c) have regard to representations made by any person,

with a view to determining whether any area in Trinidad and Tobago should be declared an area of special interest.

(3) The Commission shall consult with the Environmental Management Authority to ensure co-ordination of any proposed area of special interest with the jurisdiction of the authority regarding an “environmentally sensitive area” or “environmentally sensitive species” within the meaning of the Environmental Management Act. (Act No. 3 of 1995)

(4) Having regard to the survey or report referred to in subparagraph (2) and the consultation referred to in subparagraph (3) and any representations made by any person, the Commission may propose that an area in Trinidad and Tobago be declared an area of special interest.

(5) The Minister shall, before declaring an area to be an area of special interest, hold a public meeting in or as near as may be possible to such area for the purpose of explaining the nature and purpose of designating the area as an area of special interest and receiving any representations in respect of the proposed declaration of the Minister.

(6) At least 30 days prior to holding a public meeting referred to in subparagraph (5), the Minister shall cause notice of—

- (a) the preparation of any survey of, or report on the area;
- (b) the rationale for the proposal to declare the area as an area of special interest,

to be published in a daily newspaper circulated in the area in question.

2. (1) The Minister may, by order, declare an area to be an ^{Order declaring area} area of special interest and shall publish such order in the *Gazette* ^{of special interest} and in a daily newspaper circulated in the area.

(2) In determining whether to declare an area as an area of special interest, the Minister shall have regard to such of the following matters as appear to the Minister to be relevant:

- (a) any survey or report prepared under paragraph 1(1);
- (b) any representations made in respect of the proposal;
- (c) the natural features and beauty of the area;
- (d) features pertaining to cultural, heritage or historical significance;
- (e) any outstanding geological, physiographical, ecological or archaeological features of the area;
- (f) any special scientific interest in the area;
- (g) any special natural hazards to which the area is or may be subject;

- (h) any buildings in the area the character, appearance or architectural features of which it is desirable to preserve and enhance;
- (i) the interests of the people living and working in the area; and
- (j) any international obligation.

(3) An order made under this paragraph is subject to negative resolution of Parliament.

Planning and
development in areas
of special interest

3. (1) The Commission may cause a special plan to be prepared in respect of a proposed area of special interest.

(2) The functions of a special plan prepared under this paragraph shall be to—

- (a) set out policies for the preservation, protection and enhancement of the special features of the area;
- (b) set out policies for the use and development of land in order to sustain and enhance the local economy within the area;
- (c) provide a framework within which the people living and working in the area may be associated with the evolution and implementation of the policies referred to in paragraphs (a) and (b);
- (d) provide, where appropriate, for the development of facilities for the enjoyment of the area; and
- (e) provide for the development of facilities for the study of and research into matters relating to the special features of the area.

(3) The provisions of Part III apply *mutatis mutandis* to the preparation, amendment and approval of a special plan referred to in this paragraph.

(4) An approved special plan takes precedence over any other approved plan applicable to the area in question.

(5) Within an area of special interest no use of land or development that did not legally exist on the day the notice was published in the *Gazette* pursuant to paragraph 2(1) shall be permitted except in accordance with an approved special plan prepared pursuant to this paragraph or the grant of permission to develop land for the development in question.

(6) An application to develop land within an area of special interest shall be made pursuant to section 37 and shall be made to and determined by the Commission pursuant to section 40 of the Act, notwithstanding the fact that the power to determine such applications in respect of such land were, before the land was declared to be an area of special interest, delegated to a planning authority.

(7) Notwithstanding subparagraph (5), where an area has been declared to be an area of special interest but no special plan for such area has been approved, no application for use or development of such area shall be considered unless the Commission reasonably concludes that the proposed use or development will not cause unacceptable direct, indirect or cumulative negative impacts on the special features of the area.

(8) In considering a development application for an area of special interest for which no special plan has been approved, the Commission shall require the applicant to prepare an environmental impact assessment unless the Commission reasonably determines that having regard to the nature of the matter for which permission is sought and the purpose of the area of special interest that an environmental impact assessment is unnecessary.

(9) Where the Commission requires an environmental impact assessment, the provisions of paragraphs 4 to 8 of this Schedule apply, except as the Commission may otherwise determine.

(10) The Commission, in lieu of requiring an environmental impact assessment, may require the applicant to prepare such other studies, reports or analysis as the Commission deems appropriate and may require the applicant to hold such consultations or give such notice in respect of such studies as the Commission deems necessary or desirable.

(11) The Commission, in determining an application for permission to develop land for a special interest area for which a special plan has been approved, may—

- (a) after having regard to the matters specified in section 40 and the objectives of the plan, deny the application where the Commission has concerns that the objectives of the special plan may be negatively affected by the grant of the permission sought; and
- (b) require an environmental impact assessment to be prepared, in which case, the provisions of paragraphs 4 to 8 shall apply.

Environmental Impact Assessments

Certificates required under Environmental Management Act Act No. 3 of 1995

4. (1) In this paragraph “certificate” means a Certificate of Environmental Clearance which may be required under the Environmental Management Act.

(2) An applicant for permission to develop land who requires a certificate shall—

- (a) deal directly with the Commission, in respect of both the permission and the certificate; and
- (b) provide any environmental impact assessment required under the Environmental Management Act with the application for permission to develop land.

(3) Where a certificate is required in respect of a matter which also requires permission to develop land, no permission to develop land shall be issued until a certificate has been issued.

(4) An environmental impact assessment prepared in accordance with the Environmental Management Act may be accepted as an environmental impact assessment for the purposes of this Act, but the Commission may require such further and supplementary information, reports, analysis or studies as the Commission deems necessary or appropriate.

Objectives and content of an environmental impact assessment

5. (1) Where the Commission requires an environmental impact assessment in respect of a development application and no environmental impact assessment has been submitted pursuant to paragraph 4(2)(b), or the assessment, in the opinion of the Commission, is inadequate, the required environmental impact assessment shall comply with the provisions of subparagraphs 5(2) to (5).

(2) For the purposes paragraphs 5 to 8—

(a) “environment” includes—

- (i) air, land and water, and plant, animal, fish and human life;
- (ii) the social, economic and cultural conditions that influence the life of humans or a community;
- (iii) any building, structure, machine, device or other thing made by humans;
- (iv) any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from human activities; and
- (v) any part or combination of the foregoing and the interrelationships between any two or more of them,

in or of Trinidad and Tobago;

- (b) “proponent” means a person who—
 - (i) carries out or proposes to carry out an undertaking; or
 - (ii) is the owner or person having charge, management or control of an undertaking; and
- (c) “undertaking” means an enterprise, activity or development or a proposal for any of the foregoing.

(3) Among the objectives of any environmental impact assessment prepared for the purposes of this Act shall be the following, to:

- (a) ensure that such environmental impacts receive careful consideration before the authorities responsible take any action in connection therewith; and
- (b) encourage the authorities responsible to take such actions as may promote sustainable development and thereby achieve and maintain a healthy environment and economy,

unless the Commission, in its discretion, waives any of the foregoing requirements.

(4) An environmental impact assessment submitted to the Commission shall consist of—

- (a) a description of—
 - (i) the purpose of the undertaking, including any future phases;
 - (ii) such alternative means of carrying out the undertaking as are technically and economically feasible and the environmental effects of any such alternative means;
 - (iii) the alternatives to the undertaking;
 - (iv) the environment that will be affected or might reasonably be expected to be affected, directly or indirectly by the undertaking;
 - (v) the effects that will be caused or might reasonably be expected to be caused to the environment by the undertaking; and

- (vi) the actions necessary or that may reasonably be expected to be necessary to prevent, change, mitigate or remedy the effects upon or the effects that might reasonably be expected upon the environment caused by the undertaking, the alternative methods of carrying out the undertaking and the alternatives to the undertaking;
- (b) an evaluation of the advantages and disadvantages to the environment of the undertaking, the alternative methods of carrying out the undertaking and the alternatives to the undertaking;
- (c) without restricting the generality of the foregoing, the environmental impact assessment shall include an assessment of the environmental effects of malfunctions or accidents that may occur in connection with any phase of the undertaking, including the investigation, construction, operation, modification, decommissioning or abandonment stage as well as any cumulative environmental effects that are likely to result from the undertaking in combination with other developments or activities that have been or will be carried out;
- (d) an evaluation of the significance of the effects referred to in paragraph (c);
- (e) comments from the public that are received during the process of carrying out the environmental impact assessment and other requirements of this Act;
- (f) methods of enhancing those of the impacts referred to in paragraph (c) which are likely to be beneficial;
- (g) recommendations for action and conditions attached to any approval which may be granted; and
- (h) such other matters as the Commission may by written notification to the applicant require.

(5) An environmental impact assessment shall be accompanied by such maps, diagrams, photographs, charts and other illustrative and graphic material as may facilitate understanding of the information presented.

6. (1) The Commission may require that an environmental impact assessment be prepared—

Commission may
require an
environmental
impact assessment

(a) in respect of a proposal to develop land within an area of special interest;

(b) in respect of a proposal to develop land, not being land within an area of special interest, where the proposed development—

(i) involves or is likely to involve the production, whether directly through manufacture, indirectly as a waste product or through the deposit as waste of toxic, hazardous or other dangerous pollutants or products;

(ii) is likely to have a significant effect on the environment of the area where it is to take place by virtue of its scale or the nature of its operation;

(iii) involves the winning and working of any minerals or any other mining operations; or

(iv) is to take place in an area of environmental hazard; and

(c) where, in the opinion of the Commission, an environmental impact assessment should be prepared.

(2) In determining whether to require an environmental impact assessment to be prepared, the Commission shall have regard to—

(a) the geographical extent of the proposed development;

(b) the extent and significance of the changes to the environment that are likely to be caused by the proposed development;

(c) the extent of knowledge generally about the nature of the proposed development and its likely impact on the environment;

(d) any approved or adopted development plan for the area; and

(e) any recommendation made by any body or through any processes established under the Environmental Management Act.

Approval of plan for
environmental
impact assessment

7. (1) Where the Commission has determined that an environmental impact assessment should be prepared by the applicant before an application for permission to develop land is considered, the Commission shall, by notice in writing—

- (a) inform the applicant of the requirement; and
- (b) direct the applicant to submit to the Commission such information as is specified in the notice respecting a plan for the environmental impact assessment and the names of persons who may prepare it.

(2) The Commission may approve, with or without amendment, or reject the plan submitted in accordance with subparagraph (1)(b).

Consideration of
environmental
impact assessment

8. (1) When an environmental impact assessment has been prepared—

- (a) it shall be submitted to the Commission; and
- (b) notice of the environmental impact assessment and the place or places where copies of the assessment may be inspected by the public shall be published in the *Gazette* and at least one daily newspaper.

(2) Any person may, within one month of the publication of the notice referred to in subparagraph (1)(b), send written comments on or objections to the environmental impact assessment to the Commission, and the Commission shall take into account such comments and objections in making any determination on the assessment.

(3) Notwithstanding subparagraphs (1) and (2), where under the Environmental Management Act procedures have been approved for the involvement of the public in the environmental assessment process, those procedures shall be deemed to be applicable to the preparation and consideration of environmental impact assessments submitted to the Commission.

(4) Where an assessment is submitted to the Commission, the Commission may accept it with or without amendment or modification, refer it back to the person who prepared it for further particulars, or reject it.

(5) Where the Commission refers an assessment back to the person who prepared it, the Commission shall, by notice in writing, indicate the nature of the further particulars required.

- (6) In determining—
- (a) whether permission to develop land should be granted for a development in respect of which an environmental impact assessment has been prepared; and
 - (b) what conditions, if any, should be imposed upon such a grant of permission,

the Commission shall have regard to any environmental impact assessment that has been accepted whether with or without modification.

Listed Buildings

9. (1) Notwithstanding the provisions of the National Trust of Listing of buildings
Trinidad and Tobago Act the Commission may cause to be Act No. 11 of 1991
compiled a list of buildings in Trinidad and Tobago which appear to be of special architectural or historical merit or interest, or may utilize such a list prepared by a body of persons within the meaning of subparagraph (2), and may amend, add to, or delete from any such list of buildings.

(2) For the purposes of subparagraph (1) and paragraph 10, the term “a body of persons” means a body of persons, whether incorporated or not, which, in the opinion of the Commission, by reason of the professional, occupational, academic and other similar qualifications of its members, is possessed of expert knowledge about and interest in the conservation and preservation of buildings of architectural or historical merit or interest.

(3) The Commission shall deliver a notice to every owner and every apparent occupier of a building appearing on the list compiled or utilized in accordance with subparagraph (1), informing such persons of the fact of that such building has been listed as being of special architectural or historical merit or interest, and providing them with the opportunity to make representations concerning the list, and the Commission shall consider such representations and may revise the list.

(4) As soon as may be practicable after a revised list of buildings has been prepared in accordance with subparagraph (3), notice of the list and of the place or places where the list may be inspected shall be published in the *Gazette* and at least one daily newspaper, and the Commission shall serve a notice on every owner and every apparent owner of every building appearing on such revised list.

(5) The Commission may from time to time revise the list of buildings by adding or removing buildings therefrom, always providing the owner and apparent occupier with an opportunity to make representations prior to the listing, and always serving notice of the listing on the owner and apparent occupier.

(6) Without prejudice to the provisions of this Act dealing with an application for permission to develop land, the owner or occupier of a listed building shall notify the Commission in writing of any proposed building operations, alterations or demolition in, on, over, or under the building or any part of the building.

(7) No building operations in connection with, alteration to or demolition of a listed building or part thereof shall commence until the earlier of the date on which the owner or occupier of such building receives written acknowledgment from the Commission of the notification sent or delivered to the Commission under subparagraph (6), and twenty-one days after the sending or delivery of such notification.

(8) The Commission shall send a written acknowledgment of receipt of the notification sent or delivered under subparagraph (6) within fourteen days of such receipt.

(9) Any action taken by the Commission under this paragraph is without prejudice to the power of the Commission to make an interim building preservation order or a building preservation order under paragraph 10.

(10) Every owner or occupier of a building who causes or permits any building operations, alteration or demolition to proceed in contravention of the requirements of subparagraph (7) is guilty of an offence and liable on summary conviction to a fine of twenty thousand dollars and to imprisonment for six months.

Building
preservation orders

10. (1) Where—

(a) the Commission is of the opinion; or

(b) a representation has been made to the Commission by a body of qualified persons within the meaning of subparagraph (17),

that a building or group of buildings should be preserved and protected, as being of special architectural or historical merit or interest, the Commission may make and serve on the owner and occupier of the building or group of buildings an interim building preservation order which shall apply to the building or group of buildings specified.

(2) Where an interim building preservation order has been made in respect of a building or group of buildings and for so long as such order is in force, no demolition of, alteration or addition to, or any other building operations in connection with that building or group of buildings, other than necessary repairs and maintenance within the meaning of subparagraph (17)(b), shall be carried out without the express written permission of the Commission.

(3) An interim building preservation order shall remain in force for a period of 42 days and unless renewed, shall cease to be in force at the end of that period.

(4) On or before the end of the period of 42 days referred to in subparagraph (3), the Commission may renew an interim building preservation order for one further period not exceeding 42 days.

(5) An interim building preservation order shall—

- (a) specify the building or group of buildings to which it relates;
- (b) state the effect of the interim building preservation order and the date on which it comes into effect; and
- (c) invite the owner, any occupier and any other person with an interest in the building or group of buildings to make representations to the Commission within 21 days of service of the interim building preservation order.

(6) Notice of the making of an interim building preservation order and the opportunity for any member of the public to make representations or objections to the Commission in connection therewith shall be published in at least one daily newspaper within 21 days of the date of such notice.

(7) After considering the representations or objections of—

- (a) the owner, occupier and any other person with an interest in the building or group of buildings; and
- (b) any member of the public,

the Commission may confirm, with or without amendment, or cancel the interim building preservation order.

(8) An interim building preservation order shall, from the date of cancellation thereof, cease to be in force.

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

(10) A building preservation order shall be served on the owner and occupier of the building or group of buildings to which it applies and shall—

- (a) specify the building or group of buildings to which it relates;
- (b) state the effect of the order and the date when it comes into effect; and
- (c) inform the owner and occupier of the building or group of buildings of the opportunities for making an appeal against the order.

(11) Where an appeal against a building preservation order is made the order shall remain in full force and effect notwithstanding the making of the appeal.

(12) The provisions of subparagraph (2) apply to a building preservation order in the same way that they apply to an interim building preservation order.

(13) In considering whether to grant permission with or without conditions for any development or demolition of, alterations or additions to, or other building operations on or in the curtilage of a building or group of buildings subject to a building preservation order, the Commission shall have special regard to—

- (a) the desirability of allowing such economic activity within the building or group of buildings in the context of facilitating their continued preservation and use;
- (b) the quality of the architectural design of any proposed additions to or new buildings within the curtilage of the building or group of buildings; and
- (c) the features or characteristics of the building or group of buildings which caused the building preservation order to be made, and the extent to which those features or characteristics are proposed to be retained or enhanced.

(14) In making an interim building preservation order or a building preservation order in respect of a group of buildings, it is not necessary that all the buildings in the group be of special architectural or historical merit or interest or that the buildings of such merit or interest be adjacent to each other.

(15) The Commission may, at any time after a building preservation order comes into effect, vary or revoke the order.

(16) The provisions of subparagraphs (6) to (12) apply, *mutatis mutandis*, to the exercise by the Commission of the power conferred by subparagraph (15).

(17) In this paragraph the terms—

- (a) “body of qualified persons” means a body of persons whether incorporated or not which, by reason of the professional, occupational, academic or similar qualifications of its members, appears to the Commission to be possessed of expert knowledge concerning the conservation and preservation of buildings of architectural or historical merit or interest;
- (b) “necessary repairs and maintenance” means only that degree of restorative work, employing materials and workmanship consistent with an existing building, as is required to prevent the building or any part of it from deterioration.

Tree Preservation Orders

11. (1) Where—

Tree preservation
orders

- (a) the Commission is of the opinion; or
- (b) a representation has been made to the Commission by a body of persons within the meaning of subparagraph (13),

that a tree, trees or woodlands should, in the interests of amenity or the proper development or preservation of land, be preserved, the Commission may make and serve on the owner and occupier of the land in question an interim tree preservation order.

(2) An interim tree preservation order shall—

- (a) identify the tree, trees or woodlands to which it relates;
- (b) describe the effects of the interim tree preservation order and the date on which it comes into effect; and
- (c) invite the owner, occupier and any other person with an interest in the land on which the tree, trees or woodlands are situated to make representations to the Commission within 21 days of the service of the interim tree preservation order.

(3) Where an interim tree preservation order has been made in respect of a tree, trees or woodlands, and for so long as it continues in force, no cutting down, topping, lopping, digging up or wilful destruction of the tree, trees or woodlands to which the interim tree preservation order applies shall be carried out without the permission of the Commission.

(4) An interim tree preservation order shall remain in force for a period of 42 days and, unless renewed, shall expire at the end of that period.

(5) On or before the end of the period of 42 days referred to in subparagraph (4), the Commission may renew an interim tree preservation order for one further period not exceeding 42 days.

(6) After considering any representations made under subparagraph (2), the Commission may confirm, with or without amendment, or cancel the interim tree preservation order.

(7) An interim tree preservation order shall cease to be in force from the date of cancellation thereof.

(8) An interim tree preservation order shall, from the date of its confirmation, with or without amendment, become a tree preservation order.

(9) A tree preservation order shall be served on the owner and occupier of the land on which the tree, trees or woodlands are located, and shall—

- (a) specify the tree, trees or woodlands to which it relates;
- (b) state the effects of the order and when it comes into effect; and
- (c) inform the owner and occupier of the opportunities for making an appeal against the order.

(10) Where an appeal is made against a tree preservation order, such order shall remain in full force and effect notwithstanding the making of the appeal

(11) The provisions of subparagraph (3) apply to a tree preservation order.

(12) No interim tree preservation order or tree preservation order made under this paragraph applies to the cutting, topping or lopping of trees that are dying or dead or have become dangerous, or the cutting, topping or lopping of any trees in compliance with any obligation imposed by or under any written law or, so far as may be necessary, for the prevention or abatement of a nuisance.

(13) In subparagraph (1) the term “a body of persons” means a body of persons, whether incorporated or not, which in the opinion of the Commission, is knowledgeable about and interested in environmental matters.

Outdoor Advertising

12. (1) Subject to this paragraph, provision shall be made by regulation under the Act for restricting or regulating the display of advertisements to the extent that, in the opinion of the Commission, is expedient in the interests of amenity or public safety and, without restricting the generality of the foregoing, such regulations may provide for—

- (a) regulating the dimensions, appearance and position of advertisements that may be displayed, the sites on which such advertisements may be displayed, and the manner in which the advertisements are to be affixed to land;
- (b) requiring the consent of the Commission to be obtained for the display of advertisements, or a class of advertisements specified in the regulations;
- (c) applying, *mutatis mutandis*, in relation to any consent referred to in subparagraph (b) and to any application for such consent, any of the provisions of Part IV relating to permission to develop land and to applications for such permission; and
- (d) enabling the Commission to require the removal of any advertisement that is being displayed in contravention of the regulations, or the discontinuance of use for the display of advertisements of any site that is being used for that purpose in contravention of the regulations, and for such purpose applying, *mutatis mutandis*, any of the provisions of Part IV with respect to compliance notices.

(2) Subject to paragraph 13, regulations made under this paragraph may apply to advertisements that are being displayed on the date on which the regulations come into force and to the use for the display of advertisements of any site that was being used for that purpose on that date.

(3) Regulations made under this paragraph shall exempt from their application—

- (a) the continued display of advertisements that are being displayed under the authority of law upon the coming into operation of this Act; and

- (b) the continued use for the display of advertisements on any site that, under the authority of law in force immediately prior to the coming into operation of this Act, was permitted to be so used,

during such period as may be prescribed by the regulation, and different periods may be prescribed for the purposes of different provisions of the regulations made under this Act.

(4) Regulations made under this paragraph may direct that any act, regulation or by-law affecting the display of advertisements in force on the day when the regulations made under this Schedule come into force, shall not apply to the display of advertisements in any area to which the regulations made under this paragraph apply.

(5) Regulations made for the purpose of this paragraph may make different provisions with respect to different areas and, in particular, may make special provision for—

- (a) environmental protection areas; and
 (b) areas defined for the purposes of the regulations as areas of special control, being areas which appear to the Commission to require special protection on grounds of amenity.

(6) In exercising the powers conferred by this paragraph, the Commission shall, in the interests of—

- (a) amenity, determine the suitability of the site for the display of advertisements in the light of the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest and the natural beauty of the locality; and
 (b) public safety, having regard to the safety of persons who may use any road, dock, harbour or airfield, consider particularly whether any display of advertisements is likely to hinder or obscure any road or traffic sign or any aid to navigation by air or water.

Supplementary provisions as to advertisements

13. (1) Where the display of advertisements in accordance with regulations made under paragraph 12 involves the “development of land” within the meaning of this Act, permission to develop land for that development shall be deemed to be granted by virtue of this paragraph, and no application shall be necessary under the provisions of Part IV.

(2) Where, for the purpose of complying with any regulations made under paragraph 12, works are carried out by any person—

(a) for the removal of advertisements being displayed in accordance with permission granted under—

(i) the Restriction of Ribbon Development Ordinance;

(ii) the Advertisements Regulation Act; or

(iii) the former Act,

on the date on which the regulations come into force;
or

(b) for the discontinuance of use for the display of advertisements of any site used for such display on that date,

that person is entitled, on a claim made to the Minister, to recover from the Minister compensation in respect of any expenses reasonably incurred in such removal or discontinuance.

(3) Without prejudice to any provisions included in regulations made under paragraph 12(1)(d), a person who displays an advertisement in contravention of the provisions of any regulation, is liable on summary conviction to a fine of an amount not exceeding two thousand dollars as may be prescribed by the regulations and, in case of a continuing offence, to a further fine not exceeding three hundred dollars for every day after the first day during which the display is so continued after conviction.

(4) For the purposes of subparagraph (3) and without restricting the generality thereof, a person shall be deemed to display an advertisement if the advertisement—

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

(b) gives publicity to the goods, trade, business or other concerns of such person.

(5) A person is not guilty of an offence under subparagraph (3) by reason only that an advertisement is displayed on land of which the person is the owner or occupier, or that the advertisement gives publicity to the goods, trade, business or other concerns of the person, if the person proves that the advertisement was displayed without his knowledge or consent.

Maintenance of Waste Land

Maintenance of
waste land

14. (1) If, in the opinion of the Commission, the amenity of any area is seriously injured by the condition of any garden, vacant site or other open land in the area, the Commission may serve on the owner and occupier of the land a notice requiring that such steps be taken for abating the injury as therein may be specified.

(2) Subject to any exceptions and modifications prescribed by regulations made under this Act, the provisions of sections 52 to 56 apply, in relation to any notice served under this paragraph, in the same way as those provisions apply in relation to a compliance notice served under section 52 of the Act.

THIRD SCHEDULE

[Section 83]

CERTIFICATE

[Given pursuant to section 83 of the Planning and Development of Land Act, 1999]

ProfessionalRegistration

No.

Board or Organization

.....

Firm

.....

Address

.....

.....

Phone.....

Project

.....

Location

.....

I HEREBY CERTIFY THAT the plans and specifications appended hereto have been prepared by me and/or under my guidance and supervision; And That they are based on nationally accepted practice and are in accordance with the relevant standards and guidelines established for the disciplines involved and comply with the regulations/guidelines of all relevant Approving Agencies in Trinidad and Tobago.

I have obtained all required input/advice from such other professionals, insofar as I consider it necessary for this Project, in order to complete the drawings and to ensure that all applicable regulations/building codes and engineering standards have been adhered to.

I ALSO DECLARE THAT to the best of my knowledge and belief, there is no known fact or matter in connection with this Project and the plans and specifications which could cause final approvals from all relevant Approving Agencies to be withheld/delayed for any reason.

I HEREBY UBDERTAKE to submit to the relevant Approving Agencies all required documentation not later than thirty (30) days before the commencement of any particular construction activity and to actively pursue obtaining all final approvals therefor.

I AM ANSWERABLE AND TAKE RESPONSIBILITY for the plans and specifications, and the declaration, and undertakings given above to enable the relevant Approving Agencies to expedite the approval process and to induce any Lender to grant to the developer or owner the financing required to facilitate commencement of construction.

In witness whereof, I have hereunder set my hand and seal this day of, 19.....

[SEAL]

[Signature]

Passed in the Senate this day of ,
1999.

Clerk of the Senate

I confirm the above.

President of the Senate

Passed in the House of Representatives this
day of , 1999.

Clerk of the House

I confirm the above.

Speaker

No. 45 of 1999

FIFTH SESSION

FIFTH PARLIAMENT

REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

AN ACT to provide for the orderly and progressive development of land in both urban and rural areas and to preserve and improve the amenities thereof, for the grant of permission to develop land and for other powers of control over the use of land and the design, construction and occupation of buildings; to confer additional powers for the protection of the environment, and the architectural and cultural heritage, and for the acquisition and development of land for planning; and to provide for purposes connected with the matters aforesaid.

Received and read the

First time.....

Second time.....

Third time.....
