

## THE PLANNING AND DEVELOPMENT OF LAND BILL, 2001

### Amendments made in the Senate

#### First Column Clause

#### Second Column Extent of Amendments

2

- A. Delete the definition of “advertisement”, and substitute the following:  
“**advertisement**” means anything visible that is employed wholly or in part for purposes of **product or service promotion**, announcement, or direction and includes any hoarding or similar structure, any wall-painting and any balloon used or adapted for **serving any of the said purposes**;
- B. In the definition of “**agriculture**”, delete the words, “**meadow land**” in the fifth line.
- C. Delete the definition of “**aquaculture**”, and substitute the following:  
“**aquaculture**” means the culture of aquatic organisms in both natural and artificial aquatic habitats;
- D. For the definition of “**aquatic habitat**,” substitute the following:  
“**aquatic habitat**” means a permanent or temporary body of water, natural or artificial, supporting living organisms.
- E. In the place of the definition of “**aquatic plants and animals**”, substitute the following:  
“**aquatic organisms**” means organisms that spend all or part of their lives in an aquatic habitat;”
- F. In the definition of “**building**” **insert the words “including shipping containers”** after the word “**floor**”.
- G. Delete the definition of word “**E. C.**”.
- H. Delete the definition of the word “**fish**”.
- I. In the definition of “**land**” in line one delete the words “**any land**” and substitute the words “**the seabed**”.

- J. Immediately after the definition of “**land development regulations**,” insert the following new definition:

**“Land tribunal” means the tribunal established by section 3 of the Land Tribunal Act, 2000”.**

- K. Delete the definition of “**restore the environment**” and substitute the following:

**“restore the environment” means the rehabilitation of the environment and restoration of element of the biota consistent with the particular development”.**

- L. In the definition of “**statutory undertakers**”, in the second line, delete “**or tramway**”; and, in the third line, delete “**canal or inland navigation system**”.

- M. In the definition of “**tree**” insert between the words “**includes**” and “**palms**” the words. “**any woody higher plant,**”.

3(1)(d)

Substitute the following:

“(d) to maintain and improve the quality of the physical environment, to improve the aesthetic quality of the built environment and to protect, conserve and promote the heritage of Trinidad and Tobago as manifested in both the natural and built environments;”

4(3)

Delete the subclause.

5

Delete subclause (3) and substitute the following:

“(3) The Commission shall consist of the following members appointed by the President –

- (a) a Chairman; and
- (b) thirteen other members drawn from designated disciplines, groups or bodies as follows:

- (i) one representing non-governmental, not-for-profit organizations, concerned with 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, design-related professional disciplines;
- (iv) one nominated by the Trinidad and Tobago Society of Planners;
- (v) one representing land-related or design-related professional disciplines other than physical planning;
- (vi) one representing finance related professional disciplines;
- (vii) one representing the professional discipline of socioeconomic planning;
- (viii) one representing agricultural development interest;
- (ix) one representing industrial development interests;
- (x) one representing the Board of Directors of Environmental Management Authority;
- (xi) one representing small business, the informal sector and small property owners; and
- (xii) an attorney-at-law of not less than 5 years standing”.

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

- (a) the Commissioner of State Lands under the State Lands Act;
- chap. (b) one person representing the Tobago House of Assembly;
- (c) the Director of the Planning Commission;
- (d) the Chief Technical Officer, Ministry responsible for Works;
- (e) a representative of the Ministry responsible for Local Government;
- (f) the Director of Socio-Economic Research – Ministry of Integrated Planning and Development;
- (g) the Chief Executive Officer of the Environmental Management Authority; and
- (h) the Chief Executive Officer of the Tourism and Industrial Development Company of

## Trinidad and Tobago Limited.

- (5) The President shall appoint a member of the Commission not being an *ex-officio* member to be the Vice-Chairman.
- (6) Before any person is appointed to the Commission as a member representing building and general contractors, or any professional or other special interest group, persons appearing to be representative of the interests or the institutions concerned shall be consulted.
- (7) 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 and  
temporary  
members

- 5A. (1) The President may appoint, in respect of each member of the Commission, an alternate member 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 treated in all respects as 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 absence or inability to act of both, the Chairman and Vice-Chairman, or another member and his alternate, the President may appoint any person to act in the place of the Chairman, Vice-Chairman or other member as long as such absence or inability continues.
- (3) 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.
- (4) The Commission may co-opt one or more

persons to attend any particular meeting of the Commission to assist or advise the Commission, but no such co-opted person shall have any right to vote.

Termination  
of member-  
ship

5B. 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 of the Commission 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.

Notification  
in the  
Gazette

5C. The appointment, removal or resignation of any member of the Commission shall be notified in the *Gazette*.

Procedure  
of  
Commission

5D. The procedure of the Commission shall be in accordance with the First Schedule.

6

In subclause (1) (g), Line one, insert between the words “**determine**” and “**applications**” the words, “**within the prescribed time**”.

In subclause (3) (f), the fourth and fifth lines, delete the words “to develop land are under consideration or”.

7

A. In subclause (1) (d), immediately after the word, “**manage**”, insert the word “**public**”.

B. Immediately after subclause (2), insert the following new subclauses:

“(3) Where the Minister gives special or general directions, they shall be in writing and shall be on matters of policy.

(4) Directions given by the Minister shall be published in the *Gazette*.”

11

Immediately after paragraph (d) add the following new paragraph:

“(e) preparing plans and programmes relating to and

effecting development control in coastal and near shore areas”.

- 18(1) (a) At the end of the paragraph, add **“and environmental programmes of the Environmental Management Authority.”**
- 19 In subclause (1), line 4.
- A. Insert after the words **“plan is prepared”** the words **“and shall be consistent with any action taken under the Environmental Management Act, 2000”**.
- B. Delete clause (2) (iii) and substitute the following:
- “(iii) buffer zones where no construction will be permitted due to vulnerability of the adjacent zones to environmental hazards whether natural or man made;”.
- C. Renumber subclause (3) (c) as (2) (g) and renumber (2) (g) as (2) (h).
- D. Renumber subclause (3) (d) and (3) (e) as (3) (c) and (d).
- E. In subclause (3) (e) delete **“an environmental impact statement”** and substitute **“a strategic environmental assessment”**.
- 21(1) A. In the first line, delete **“insofar as it is appropriate to do so,”**
- B. Add a new paragraph (c) to read:
- “(c) hold public consultation”.
- C. Renumber subsequent paragraphs.
- 23 Delete and substitute the following:
- Designation of land subject to any compulsory purchase 23. (1) Where, in the opinion of the Minister, the objectives of a development plan require that any land be subject to compulsory acquisition, the Minister may instruct the Commission to

prepare a local area action plan (hereinafter referred to as “the local plan”) for the specific area to be designated as subject to such compulsory acquisition and describing –

- (a) the intended objectives;
- (b) the uses to which the designated land would 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 intended objectives and proposed uses.

(2) The local plan shall contain such details relating to construction and other development initiatives so as to permit immediate implementation of such plan.

(3) Before submitting a local plan to Parliament under section 24 (11), the Minister shall –

- (a) publish a notice indicating that the land is proposed to be designated as being subject to compulsory acquisition for objectives of the development plan, and setting out the information mentioned in subsections (1) (a) to (d) in the *Gazette* and in two daily newspapers, and in such other manner as may be calculated to bring the local 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 mortgagee or other encumbrancers of such land.

(4) Any authority or other person

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

(5) After considering any comments, representations or objections made pursuant to subsection (4), the Minister may agree to the local plan submitted to him, and the Commission may thereafter, pursuant to section 24, certify that the local plan conforms to the National Physical Development Plan and that, in its preparation, the requirements of this Act have been satisfied.

(6) Where under this section, land is designated in an operative development plan as subject to compulsory acquisition, the land may be compulsorily acquired in accordance with the provisions of the Land Acquisition Act, as land being needed for public purposes within one year of the date of publication of the Notice of approval of the Plan by Parliament under section 24 (13), and where the land is not acquired within the time specified herein the designation of such land for compulsory acquisition shall cease to have force and effect, without prejudice to any liability for payments of interest that has already accrued to the owner under subsection (7).

(7) Where land is designated for acquisition under this section, interest at the rate of 1% per month shall accrue from the date of publication of the Notice referred to in subsection (6), until payment is made, and payment shall be made not later than 2 years thereafter.

(8) Nothing in this section prevents –

(a) Acquisition by agreement of any land designated as subject to compulsory acquisition,



including –

- (i) An agreement to exchange land designated as subject to compulsory acquisition, for land provided by the State with appropriate payment in cash by way of adjustment for achieving equality in value; or
  - (ii) An agreement to transfer land designated as subject to compulsory acquisition to Urban Development Corporation of Trinidad and Tobago a company continued under the Companies Act, 1995 or any local development corporation in consideration of the issue of equity stock in such a corporation.
- (b) Compulsory acquisition by the State or any authority, under powers contained in any other Act whether or not the land has been designated for compulsory acquisition under this Act.

24

- (A) In subclause ( i) after the word **“Gazette”** add the words **“two newspapers in daily circulation in Trinidad and Tobago”**.
- (B) In subclause 3, lines two and three substitute for the word **“may”** the word **“shall”**.
- (C) In subclause (4), the last line delete the words **“at least one daily newspaper”** and substitute the words **“two newspapers in daily circulation in Trinidad and Tobago”**.
- (D) In subclause (7) (a), line one, insert between the words **“Gazette”** and **“notifying”** the words **“and two newspapers in daily circulation in Trinidad and Tobago”**.

(E) In subclause (13), the last line, delete the words **“in at least one daily newspaper”** and substitute the words **“two newspapers in daily circulation in Trinidad and Tobago”**.

29 In subclause (2) (a), the fifth line, substitute for the word **“materially”** the word **“dimensionally”**.

31 (1) (b) A. Substitute the following:  
 “(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 regulation**, where such permission is not granted by any order **or regulation**; or”

31 (2) B. In line 3 delete the words **“unconditional or”**.

35 In line three substitute for the words **“shall take into account ”** the words **“shall comply with”**.

35 (1) (c) Delete and substitute the following:

**“any plans and policies relating to an area of any special interest”**.

35 (1) (f) Delete subclause (1) (f) and substitute the following:

**“the terms conditions and mitigation measures set out in a Certificate of Environmental Clearance issued under the Environmental Management Act and may not make any decision inconsistent with the refusal of a Certificate of Environmental Clearance or with any terms of such a certificate.”**

35 (1) A. In paragraph g (i) delete the words **“or special plan”**.

B. In paragraph g (ii) insert the following closing words after the word **“and”** in line 3:

**“shall take into account any other material consideration”**.

35 (1) (h) Delete paragraph **“h”**.

35 (2) A. Delete the word **“and”** at the end of paragraph (e) and insert the same at the end of paragraph (f).

B. Add a paragraph (g) to read:

**“any objections made by members of the community”.**

- 36 Delete.
- 37 (1) Renumber as clause 36 and add the following words at the beginning of clause 37:
- “Subject to section 35”.**
- 37 (2) A. Renumber as clause 37.  
 B. Substitute for the words **“pursuant to subsection (1)”** the words **“pursuant to section 36”**.  
 C. In line two substitute for the words **“subsection (1) (b)”** the words **“section 36 (b) or (c)”**.  
 D. Add a marginal note to read:
- “Determination to be in writing”.**
- 38 (1) In line two substitute for the word **“section 37 (1) (b)”** the words **“section 36 (b)”**.
- 38 (1) (h) In line one substitute for the word **“continuous”** the word **“continual”**.
- 38 (1) (l) Renumber **“(iii)”** as **“(iv)”** and insert a new (iii) to read as follows:  
**“ (iii) coastal land subject to sea level rise and coastal erosion”.**
- 40 (2) In line 1, delete the word **“all”**.
- 43 (2) (a) In line three delete **“37 (1) (b)”** and substitute **“36 (b)”**.
- 48 (1) – (4) A. Delete and substitute the following:
- (1) Any application for permission to develop land, or for approval of any matter by the Commission or any planning authority under a development order or regulation, which -
- (a) involves issues of more than local importance, giving rise to substantial regional or national controversy;  
 (b) conflicts with national planning policy;  
 (c) involves the interest of a foreign government; or  
 (d) affects the obligations of Trinidad and

Tobago under any treaty or international convention

shall be referred by the Commission or planning authority to the Minister.

- (2) A referral to the Minister under subsection (1), may relate either to a particular application or to any or all applications of a class specified in the referral.
- (3) Notification of referrals to the Minister under this section and the reasons for such referrals shall be published in the Gazette.
- B. Renumber subclauses 5,6 and 7 as subclauses 4,5 and 6 respectively.
- C. In renumbered subclause (5) (b) delete the words “**if either of them so desire**”.
- D. Add a new subclause 7 to read:

**“(7) Nothing in subsection (6) shall be construed as preventing any person from applying to the High Court for Judicial review of a decision made by the Minister under this section.”**

- 51 (5)
  - A. Delete from lines one to two, the words “**employee or agent of an employer, principal, or owner**” and insert the words “**on any person as set out in subsection (3) (d)**”.
  - B. In the last line delete the words “**employer, principal or**”.
- 51 (8) Delete the word “**E.C.**” in the third line and wherever else it occurs in the Bill and, for each occurrence, substitute the words, “**Land Tribunal**”.
- 53 (1) In the fifth line, immediately after the word “**may**” insert the words “**after obtaining a warrant issued by a magistrate**”.
- 57 (6) Delete from lines one to two the words “**an employee or agent of an employer, principal, or owner**” and substitute the words “**any person referred to in subsection (1) (a), (b) and (c)**”.
- Delete “**employee, principal, or**” appearing after the word “**the**” in line four.
- 62 (1) Delete the first three words and substitute “**With effect from the date of publication**”.

- 69 (5) In the fourth line, delete the words “**and by force if necessary**”.
- 75 (5) Delete and substitute the following:
- “(3) The Minister shall notify the date (hereinafter referred to as the “appointed day”) of the establishment of the Committee-**  
**(a) in one daily newspaper; and**  
**(b) by notice published in the Gazette.”**
- 75 (4) In the first line, delete “**On publication of the notice referred to in subsection (3)**” and substitute “**With effect from the appointed day**”.
- 75 (5) A. In the first line of the subclause, for “**subsection (3)**”, substitute “**subsection (4)**”;  
 B. Delete paragraph (b);  
 C. Re-letter paragraph (c) to (f) appropriately;  
 D. Delete all words following old paragraph (f).
- 83 (3) In the fourth and fifth lines, for “**the list of listed professionals**”, substitute “**the list referred to in section 80**”.
- 90 A. In the second line, delete the words “**(4) or (5)**” and insert the words “**(4), (5) or (6)**”.
- B. Insert after the words “**other determinations of**” the words “**the Minister and**”.
- C. Insert a new subclause (6) as follows and renumber appropriately:
- “(6) A person whether or not he has a sufficient interest in a matter to which a decision of the Minister made under section 33 of this Act relates may appeal against a decision of the Minister with leave of the Court where the Court is satisfied that an appeal is justifiable on the public interest”.**
- E. Insert a new subclause (7) as follows:
- “(7) In determining whether an appeal is in the public interest the Court may take into an account any relevant factor including –**  
**(a) the need to exclude the mere busybody;**

- (b) the importance of vindicating the rule of law;
- (c) the importance of the issue raised;
- (d) the genuine interest of the applicant in the matter;
- (e) the expertise of the applicant and the applicant's ability to adequately present the case; and
- (f) the nature of the decision of the Minister appealed against".

F. Insert a new subclause (8) as follows:

**“(8) Where an appeal is filed under section 90 (6) the Court may not make an award of cost against an unsuccessful appellant except where the appeal is held to be frivolous or vexatious”.**

93 (2) (b)

In the first line, delete “**contained**” and substitute the word “**stated**”.

93 (2) (d)

In the first line, immediately after “**requirements**” insert “**stated**”.

96 (2)

In the third and fourth line substitute for the words “**twenty-four hours**” the words “**forty-eight hours**”.

97 (3)

At the end of the fourth line, for the word “**four**” substitute the word “**seven**”.

99 (1)

In the third line, immediately after the word “**time**” insert “**subject to subsection (2)**”.

101 (1)

A. In line 1, after the words “**may**” insert the word “**after public consultation**”.

B. Delete subclause (k) and (l) and renumber (m) and (n) as (k) and (m).

C. Add a new paragraph “(l)” to read as follows:

**“(l) for prescribing procedures for the development control committee”.**

D. Add a paragraph “(n)” to read:

**“(n) for prescribing the time for the determination of applications for the development of land”.**

102

A. Renumber subclause 3,4 and 5 as 4,5 and 6.

B. Add a new subclause 2 to read as follows:

**“(2) ‘Any officer or other person acting under the**

**authority of this Act who invites, accepts any gratuity, bribe, promise or other inducement in the due performance of his duty is guilty of an indictable offence and is liable to a fine of one hundred thousand dollars or imprisonment for five years or both' ”.**

First Schedule

- A. Delete the words “**section 5**” occurring in the line below the words “**First Schedule**” and substitute **the words “section 5D”**.
- B. Delete paragraphs **1 to 4** and renumber paragraphs **5 to 15** as **1 to 11**.

Typographical Errors

Clause 18 (1) (c )

In line 1, the word “**link**” should read “**links**”.

Clause 18 (1) (d) (iii)

- A. In line 1, replace the word “**adopt**” with the words “**the adoption of**”.
- B. In line (2) after the second “**and**” insert the words “**for the**”.

August 24, 2001