

THE PLANNING AND DEVELOPMENT OF LAND
BILL, 2001

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No. 4 of 2001

**First Session Sixth Parliament Republic of Trinidad
and Tobago**

SENATE

BILL

**AN ACT relating to the planning and development
of land**

THE PLANNING AND DEVELOPMENT OF LAND
BILL, 2001

Explanatory Notes

(These notes form no part of the Bill but are intended only to indicate its general purport)

The purpose of this Bill is to reform the town and country planning laws of Trinidad and Tobago by establishing a system of planning and development approvals which is designed to secure predictability, simplicity, promptness and transparency in the treatment of development applications.

The Bill therefore establishes a National Physical Planning Commission and endows it with relevant powers to achieve the overall objectives of the Act for which this is the Bill. The Commission would work with the Environmental Management Authority to ensure preservation of the environment as an integral part of the planning process.

It also provides for decentralization of certain decision making powers to local government.

PART I

PRELIMINARY

Clause 1 would provide the short title and commencement of the Act for which this is the Bill.

PART II

INTERPRETATION AND PURPOSE

Clause 2 would define certain words and expressions used in the Bill. "Commission" is defined as the National Physical Planning Commission established by section 5; "Planning Authority" is defined to mean the Tobago House of Assembly, any Local Authority or other body or authority appointed to prepare development plans or exercise development control functions; "the B.C." is defined as the Environmental Commission established under the Environmental Management Act, 2000.

Clause 3 would set out the objects and purpose of the Act.

PART III

GENERAL ADMINISTRATION

Clause 4 would set out the general responsibility of the Minister. The Minister is responsible for securing the objects set out in section 3 and for the due administration of the Act.

Clause 5 would establish the National Physical Planning Commission which is referred to in the Bill as “the Commission”.

Clause 6 would set out the functions of the Commission. The main functions of the Commission would be: to advise the Minister on planning policy, to prepare the National Physical Development Plan for Trinidad and Tobago, to develop codes and standards, to co-ordinate and integrate planning and plan implementation functions of all agencies, and to co-ordinate the land development approval process.

Clause 7 would set out the duties of the Commission. Its main duty would be to monitor and oversee the effectiveness and status of the National Physical Development Plan.

Clause 8 would provide that the Chairman and Vice-Chairman of the Commission shall be paid such remuneration and allowances as would be determined by the President.

Clause 9 would require the members of the Commission to disclose any personal interests which may come into conflict with their duties as such members.

Clause 10 would provide for the Commission to delegate to committees any of its functions with the approval of the Minister. Committees could include persons who are not members of the Commission. This provision is intended to facilitate involvement of persons with special knowledge of planning and development-related matters in the work of the Commission.

Clause 11 would provide for the appointment of Standing Committees. The Standing Committee appointed to effect development control would be called the “Development Control Committee”. The Development Control Committee would have representation from technical agencies and these persons would guide the exercise of the statutory powers of their respective agencies in development-related matters.

Clause 12 would provide for the appointment of a Chief Executive Officer, a Director of Administration, a Secretary, a Legal Officer, a Director of Planning, a Chief Building Officer and such other staff as may be required for proper functioning of the Commission.

Clause 13 would empower the Commission with the approval of the Minister to delegate appropriate functions to the Director of Planning.

Clause 14 would set out the responsibilities of the Chief Building Officer. He would, among other things, be responsible for the enforcement of building and construction codes.

Clause 15 would provide for devolution of development control functions to the local authorities. To this end, within one year of the commencement of the Act the Commission must consult with local authorities and prepare a program for devolution. Within two years of the commencement of the Act the Minister is required to make an order appointing the several local authorities to exercise appropriate functions as specified in the order.

Clause 16 would empower the Minister to appoint a Local Authority or an authority constituted by him to prepare a development plan for any limited area of the Republic other than Tobago.

Clause 17 would empower Local Authorities to delegate their functions relating to development control to a committee or a sub-committee or to an officer of the authority.

PART IV

DEVELOPMENT PLANS

Clause 18 would provide guidelines for the preparation of the National Physical Development Plan. The NPDP would provide the policy framework within which regional and local planning could be undertaken and must be consistent with the social, economic, regional, environmental, cultural and other development policies of the government.

Clause 19 would set out the functions and content of development plans generally. Development plans must contain a land use plan showing areas designated for agricultural, forestry, residential, recreational, and other uses, and any environmentally sensitive areas or buffer zones. Plans must state goals and objectives and indicate the measures intended to realize them.

Clause 20 would set out various matters that could be the subject of conditions, directions, reservations or restrictions when the Minister appoints a planning authority to prepare a development plan.

Clause 21 would set out the procedure that should be followed in the preparation of a development plan. A notice must be published in a newspaper indicating: when the preparation of the plan is to commence; the area for which the plan is to be prepared; and that the public is invited to make representation. The Commission would be empowered to obtain any information necessary for the purpose of preparing the development plan.

Clause 22 would allow the Commission to provisionally agree to a proposed development plan and thereby permit the plan to proceed to the stage of public examination and certification in accordance with the procedure referred to in clause 24 before submission for the Minister's approval.

Clause 23 would provide for designation and compulsory acquisition of land under the Land Acquisition Act for the purpose of implementing proposals of a development plan.

Clause 24 would provide for certifying provisional development plans. Notification in the *Gazette* would be given to enable the public to make comments, representation or objections. Provision is made for public hearings on plans. The Commission may certify the plan with or without amendment. It may rescind its provisional agreement granted to the development plan. Where the Commission certifies the provisional development plan, it shall give notice in the *Gazette* of such certification. The National Physical Development Plan would be subject to affirmative resolution of Parliament. Any other plan would be subject to negative resolution of Parliament.

Clause 25 would provide for the modification or rescission of development plans.

Clause 26 would provide that an approved development plan should be the principal consideration in any decision taken under the Act if in respect of that decision the Act stipulates that material considerations should be taken into account.

Clause 27 would enable the Minister to publish statements of policy conducive to the discharge of functions under the Act. Where a policy statement has the effect of altering any approved

development plan, the statement of policy shall be published in the *Gazette* and in a daily newspaper and laid before Parliament. This provision would provide opportunity for public comment on and for Parliamentary scrutiny of such statements.

Clause 28 would provide that reports and plans should be made available for public inspection and purchase.

PART V

DEVELOPMENT CONTROL MEANING OF "DEVELOPMENT"

Clause 29 would define the word "development" to mean: the carrying out of building, engineering, mining or other operations in, on, over or under any land; the making of any material change in the use of any building or other land; and the subdividing of land. Certain specified activities would be deemed not to constitute "development"; so that work that is mere maintenance or any internal improvement without external effects would not constitute "development" and, therefore, would not be subject to control under the planning regime.

Requirement of Permission to develop land

Clause 30 would provide that, except when the Act provides otherwise, permission is required to develop land before any development is commenced.

Development Orders and Regulations

Clause 31 would provide that the Minister may by order or regulations provide for grant of permission to develop land. For certain routine or minor types of development, permission would be granted by a development order or development regulation itself without need for application. However, for most development of significance, permission must be granted upon submission of a written application made in accordance with a development order or regulation.

Applications for permission to develop land

Clause 32 would provide that applications to develop land should be made as prescribed in regulations. Applications should include such information as may be required and should be accompanied by the prescribed fees.

Clause 33 would provide for the making of regulations or of development orders prescribing categories of applications that

must be notified to prescribed classes of persons or be publicised prior to the application being determined.

Clause 34 would require every planning authority to maintain a register showing information respecting applications and the manner in which they have been dealt with. Registers would be open to public inspection.

Determination of applications

Clause 35 would identify the matters that could be taken into account in determining applications for permission to develop land. Under the Act, such matters would constitute “material considerations”.

Consideration of environment effects

Clause 36 would provide for the integration of environmental considerations in planning determinations and for the entering into Memoranda of Understanding between the Commission and the Environmental Management Authority with respect to the administration of Environmental Impact Assessments and Certificates of Environmental Clearance.

Clause 37 would provide that permission may be granted without or subject to conditions, or permission might be refused. A determination must be in writing and must provide reasons for any refusal or any conditions imposed. Determinations must also provide information on any right of appeal, and, where practicable, should inform the applicant of acceptable revisions.

Clause 38 would specify the nature of conditions that may be imposed when granting permission to develop land.

Clause 39 would require that permission to develop land be displayed while development proceeds, if the development involves certain construction, mining, or other engineering operations.

Clause 40 would provide generally for the expiry of permission to develop land after a period of five years.

Clause 41 would provide for granting of “outline development approval” to erect a building or to subdivide land to enable applicants to ascertain whether proposed development is of such type and scope as may be permitted under any relevant development plan or policy without incurring the expense for full engineering or architectural designs. Outline development approval confers no right to commence building or other operations.

Clause 42 would provide that, unless it is extended, outline development approval is valid for only one year.

Clause 43 would provide for planning agreements between the Commission or a planning authority and a land owner for regulating the development or use of land. A planning agreement would be enforceable against the owner and all subsequent owners or occupiers of the land.

Clause 44 would provide for the taking of a bond to ensure due observance of any condition of a permission or due performance of any agreement.

Clause 45 would provide that if a grant of permission specifies no permitted use of land the grant should be construed as permitting only such use as is stated in the supporting application and any accompanying material; and that, where permission for a limited period has expired, no new permission is required to revert to a prior lawful use of land.

Clause 46 would provide for the grant of permission to retain buildings or works and to continue any use of land carried out or instituted prior to the submission of an application for permission.

Clause 47 would reserve to the Minister a limited power to intervene in applications for permission to develop land. The Minister may require that any application that involves issues of more than local importance, that raises significant architectural or urban design issues giving rise to regional or national controversy, that conflicts with national policy; that involves the interest of a foreign government; or that affects treaty obligations of Trinidad and Tobago be referred to him for determination. A direction of the Minister requiring any such referral must be published in the *Gazette* and, in rendering a determination on any application, the Minister must have regard to considerations specified in the Act.

Clause 48 would provide that the benefit (and the burden) of any permission runs with the land.

Clause 49 would empower the Minister to revoke or modify permission to develop land or outline development approval and for payment of compensation in certain circumstances.

Clause 50 would provide for the issuing of a development completion notice where completion of development (other than the construction of a single family dwelling) is unreasonably delayed. A confirmed development completion notice would state

that the permission to develop land to which the notice relates would cease on a date not less than one year from the date of issue of the notice.

Clause 51 would allow the Commission or the planning authority to issue a compliance notice or an immediate compliance order setting out steps that an owner or occupier of land is required to take to prevent or remedy a breach of planning control. A compliance notice would allow at least twenty-eight days for implementation of corrective measures. An immediate compliance order is more peremptory and need not allow a period of twenty-eight days for corrective action. An immediate compliance order would be issued where the breach of planning control is on-going or where there is serious risk of danger to the public, to life or health, or there is serious risk of significant impairment to the environment.

Clause 52 would provide for the withdrawal or modification of compliance notices or immediate compliance orders.

Clause 53 would empower the Commission or planning authority to take such steps as are necessary to secure compliance with planning control and recover any cost incurred where the person served with a compliance notice or an immediate compliance order has failed to comply with such notice or order.

Clause 54 would constitute it an offence to fail to take required steps, or to use or permit land to be used in contravention of a compliance notice or immediate compliance order.

Clause 55 would provide that notwithstanding any other law, any attempt at conveyance or other disposition of an interest in land that would result in subdivision of land shall have no legal effect, unless permission to subdivide land is granted under the Act.

Clause 56 would provide that after a plan of subdivision is duly registered, the whole of any lot shown on the registered plan of subdivision may be validly conveyed notwithstanding that the related grant of permission to develop land by subdivision has expired.

Clause 57 would provide for the issue of an environmental repair order on an owner or occupier of land to take such measures as are specified in the order. An environmental repair order would be issued where an environmental hazard exists in relation to land subject to development.

Clause 58 would provide that notwithstanding compliance with a compliance notice, immediate compliance order, or environmental repair order, the notice or order continues to be effective and that to knowingly contravene the terms of any such notice or order constitutes an offence.

Clause 59 would provide for the issuance of discontinuance orders requiring cessation of the use of any land, or imposing conditions on such continued use, or requiring removal or alteration of any building or works. Any person on whom an order is served is entitled to a hearing. An order would be made in the interest of proper planning having regard to the development plan and becomes effective only when confirmed by the Minister. Compensation is payable in respect of the diminution in the value of any interest affected by the order.

Clause 60 would provide that the provisions contained in the Second Schedule would regulate out-door display of advertisements and the maintenance and preservation of trees and woodlands.

PART VI

LAND DEVELOPMENT AND BUILDING CODES AND PERMITS

Clause 61 would provide for the preparation and approval of codes and standards relating to the development of land. The Minister must make regulations establishing a building code for Trinidad and Tobago.

Clause 62 would provide that, upon the appointment of the Chief Building Officer and the coming into operation of the building code, the old system of construction and infrastructure approvals exercised under the Public Health Ordinance and the Municipal Corporations Act would cease to apply. The Chief Building Officer, with the approval of a local authority, would appoint one or more of the officers of the local authority to exercise his powers within the local authority's area.

Clause 63 would provide that a permit must be obtained to construct or demolish any building.

Clause 64 would state the conditions governing issuance or revocation of permits and would forbid the carrying out of development contrary to the terms of a permit except when authorized.

Clause 65 would provide for issuance of an occupancy certificate upon completion of development in substantial

compliance with the terms of the permit, would prohibit occupancy of new structures before obtaining an occupancy certificate, and would provide for limited occupancy of incomplete structures.

Clause 66 would provide for the issuance of notices and stop orders for the purpose of securing compliance with the provisions of the building code.

Clause 67 would provide for the making of an order prohibiting the covering or requiring the uncovering of work to facilitate inspection.

Clause 68 would authorize entry upon job sites to determine whether any work or operation is unsafe and would authorise the issuance of orders specifying measures to be carried out to make sites safe.

Clause 69 would specify powers of inspectors. These would include the power to demand production of drawings and specifications, to conduct tests and inquiries, to take photographs, and to take samples. An inspector might be accompanied by any person with special or expert knowledge of matters relating to the work being inspected, may be accompanied by a constable and may obtain a search warrant.

Clause 70 would enable the Chief Building Officer to review, amend, rescind or confirm any permit, notice, order or decision issued or made by an Inspector and exercise any of an Inspector's functions.

Clause 71 would provide for appeals from decisions of the Chief Building Officer to the Commission. For purposes of determining any appeal, the Commission may appoint a person to hear the parties and prepare a report for the Commission's consideration.

Clause 72 would provide that the presentation of an appeal against any order or notice issued by the Chief Building Officer or an Inspector does not automatically stay the effect of the order or notice.

PART VII

LISTING OF PROFESSIONALS AND EXPEDITION AND CO-ORDINATION OF DEVELOPMENT APPROVALS

Clause 73 defines certain words and expressions used in this Part such as "listed professional", "Registered Professional", "simple plans" and "approval submission" .

Clause 74 would provide that all plans for building construction or other development (“except simple plans”) shall be prepared and submitted to the Commission by a listed professional.

Clause 75 would provide for review of plans for complex developments by the Development Control Committee appointed under clause 11(1)(c) or by its specially constituted subcommittee having appropriate representation from regulatory agencies.

Clause 76 would provide that the governing board or council of certain land development-related professions establish standards of professional competence for the preparation of various approval submissions.

Clause 77 would require that the Commission consult with relevant professional organizations and set the minimum amount of any performance bond that may be required for any category of land development-related work.

Clause 78 would provide for the granting of certificates of competence by professional organizations.

Clause 79 would set out continuing obligations of listed professionals.

Clause 80 would require the governing board or council of each professional organization to update the list of currently valid certificates of competence with indication of any limitations on the certificates issued. The Secretary of each professional organization must notify the Commission and publish in the *Gazette* any additions to or deletions from the list.

Clause 81 would require the Commission to maintain a comprehensive register of listed professionals.

Clause 82 would set out the circumstances in which a person would lose his status as a listed professional.

Clause 83 would indicate the complaint procedure for removing a person from the list maintained pursuant to Clause 80.

Clause 84 would permit a listed professional to expedite applications by undertaking the circulation of approval submissions to concerned agencies.

Clause 85 would allow the Commission to rely on the professional certificate of listed professionals in issuing approvals in respect of approval submissions.

Clause 86 would enable the Commission to issue building permit in reliance of professional certificate pending expert technical review.

Clause 87 would state the effect of a permit issued under clause 86.

Clause 88 would provide for the issuing of special building permits under secure arrangements guaranteeing that the Commission would be satisfied that development being undertaken conforms to applicable codes and standards.

Clause 89 would allow the Commission to rely on a written statement of a listed professional as to the adequacy and the conformance of any work to approved plans and specifications.

PART VIII

PLANNING AND DEVELOPMENT APPEALS

Clause 90 would provide for appeals to the Environmental Commission established under the Environmental Management Act (“the EC”) against certain orders, notices, decisions or determinations made under this Act.

Clause 91 would provide for appeals to be made against environmental repair orders, compliance notices and immediate compliance orders.

Clause 92 would provide for the manner of hearing appeals by the EC.

Clause 93 would provide that no court shall order compensation for the party successful in an appeal against an immediate compliance order or a compliance notice but empower the EC to decide whether any actual loss that occurred should be compensated. If the EC determines that compensation is payable, the Minister must give effect to that determination. The clause sets out matters that should guide the EC’s determination.

Clause 94 would provide that a decision of the EC may be appealed to the Court of Appeal with the leave of a Judge of the Court of Appeal or upon the certificate of the EC that the case is a proper one for appeal on a question of law.

Clause 95 would require the Commission to submit annual reports on the volume of appeals under the Act and the manner of their disposition together with any recommendations of the Commission for review and modification of development plans and policies.

PART IX

SUPPLEMENTAL

Clause 96 would provide for powers of entry for inspecting, surveying, or valuing land and exercising other functions under the Act.

Clause 97 would provide for the manner of service of notices and other documents under the Act.

Clause 98 would empower the Minister, the Commission or a planning authority to demand information from an occupier of or a person in receipt of rent of any land for the purpose of making or serving any document authorized or required to be served under the Act.

Clause 99 would empower the Minister, the Commission or a planning authority to examine documents relating to land for the purpose of exercising functions under this Act.

Clause 100 would provide that the Minister may make grants to organizations to enable them to undertake programs of public information and awareness as to the need to protect and conserve the built and natural environment.

Clause 101 would provide for the making of regulations generally. Regulations would be subject to negative resolution of the Parliament.

Clause 102 would create certain offences.

Clause 103 would permit the acceptance in evidence of documents without proof of the signature to such documents.

Clause 104 would provide for the Commission or a planning authority to seek an injunction to restrain any person from committing a breach of planning control.

Clause 105 would provide that the provisions of this Act shall supercede any contrary provision of any prior enactment relating to the development of land.

Clause 106 would repeal the Town and Country Planning Act but provides that planning permission granted under that Act would continue in force under this Act.

Clause 107 would make the Act binding on the State.

BILL

AN ACT relating to the planning and development
of land

[, 2001]

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

PART I

PRELIMINARY

1. (1) This Act may be cited as the Planning and Short title and
commencement
Development of Land Act, 2001.

(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 II

INTERPRETATION AND PURPOSE

Interpretation

2. (1) In this Act—

“advertisement” means anything visible that is employed wholly or in part for 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 advertisement;

“agriculture” includes horticulture, fruit cultivation, seed cultivation in forest land, 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, the use of aquatic habitats for reserves, hatcheries, raceways, fish ponds, and the building on or placing in aquatic habitats of artificial reefs, fish pens, fish cages and fish tanks;

“aquatic habitat” means:

- (a) a body of water; or
- (b) an area or land wholly or partially covered by water,

supporting plant or animal life regardless of whether such body or area is natural or artificial;

“aquatic plants and animals” means plants and animals that, for all or most stages of their life cycles, live in aquatic habitats;

“area of special interest” means any part of Trinidad and Tobago determined by the competent authority under any law to be an area of natural, scientific, heritage, historic, architectural or aesthetic interest or significance and includes a building listed under the National Trust of Trinidad and Tobago Act;

Act No. 11 of 1991

“breach of planning control” means any development or use of land commenced, existing, or continuing—

- (a) in breach of any terms or conditions subject to which permission was granted; or
- (b) where permission required to develop land has not been granted;

“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 in or on the structure regardless of whether it is 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;

“certificate of environmental clearance” means a certificate issued under section 36 of the Environmental Management Act;

Act No. 3 of 2000

“Chief Building Officer” means the Chief Building Officer appointed under section 12(1);

“Commission” means the National Physical Planning Commission established by section 5;

“compliance notice” means a notice served under section 51(3);

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

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

“development” has the meaning assigned to it by section 29 and “develop” has a corresponding meaning;

“development completion notice” means a notice served under section 50 and includes a provisional development completion notice;

“development order” means an order made under section 31;

“development plan” has the meaning assigned to it by section 19;

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

“development regulations” means regulations made under section 19;

“E.C.” means the Environmental Commission established under the Environmental Management Act, 2000;

Act No. 3 of 2000

“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, the reclamation of land, and any other activity prescribed;

“environment” means all land, areas beneath the land surface, atmosphere, climate, surface water, ground water, sea, marine, and coastal areas, sea-bed, wet lands and natural resources (including plants and animals) within the jurisdiction of Trinidad and Tobago;

“environmental hazard” means any area, condition, development or other activity, and any process or pollution on or in the vicinity of land 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 present 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 present serious risk of substantial impairment of the environment; and

without limiting the generality of the foregoing, the following conditions, when they exist or, in the opinion of the Commission, are likely to occur on or in the vicinity of land subject to development, constitute environmental hazard:

- (d) erosion or the potential for erosion;
- (e) flooding or the potential for flooding;
- (f) landslides or unstable soil;
- (g) pollution of surface water, aquifers, land or the atmosphere;
- (h) any breach of an international obligation undertaken by Trinidad and Tobago with respect to the environment or any species of plant or animal; and
- (i) abandoned, discarded or unlawfully deposited waste of any type except domestic waste generated by a person or a family when deposited on property that they own or occupy;

“environmental impact assessment” means an environmental impact assessment within the meaning of section 36 of the Environmental Management Act;

“environmental repair order” means an order issued under section 57;

“environmental reserve” means land required to be set apart for protection against environmental hazard or for the purpose of providing public access;

“environmentally sensitive area” means land to which a designation order made under section 41 of the Environmental Management Act, 2000 applies;

“erection” in relation to any 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;

“former Act” means the Town and Country Chap. 35:01 Planning Act;

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

“immediate compliance order” means an order served under section 51(6);

“inspector” includes an officer of a Local Authority authorised under section 62(2) to perform functions on behalf of the Chief Building Officer;

“land” includes any building, any land underlying the territorial waters of Trinidad and Tobago, and, in relation to the acquisition of land, includes any interest in or over land;

“land development regulations” includes: land use, subdivision, development approval, building, construction, and other regulations controlling, regulating, or affecting the use or development of land;

“local authority” means the council of a Municipal Corporation within the meaning of the Municipal Corporations Act;

“material change”, in relation to the use of any building or other land, 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 such other changes as the Minister may by Order prescribe;

“minerals” includes all naturally occurring metallic and non-metallic minerals, natural gas, petroleum and related substances, 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 activities;

(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 installation referred to in paragraph (b) that has 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;

“operative development plan”, means a development plan which was approved or is deemed to have been approved by Parliament and which—

- (a) was publicly notified in accordance with section 24(13) and has come into operation at such later date as had been determined by Parliament; or

- (b) where Parliament had fixed no later date for the development plan to become operative, has come into operation upon being publicly notified in accordance with section 24(13);

“outline development approval” has the meaning assigned to it by section 41;

“owner”, in relation to any land, includes—

- (a) any person either in possession or in receipt 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; and

(b) any person in occupation of any land, otherwise than as a tenant from year to year, or for any less term, or as a tenant at will;

“permission for a limited period only” means permission granted subject to any condition involving a specified period, including such conditions as are referred to in section 38(1)(b) and (e);

“permit”, for purposes of Part VI, 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 other body or authority appointed—

(i) to prepare development plans pursuant to section 16; or

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

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

“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 to be likely to cause harm to human health or to the environment, through—

(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 odors;

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

“regulations” includes any 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, regardless of whether it is a thoroughfare;

“special plan” means a development plan prepared for an area of special interest;

“statutory undertakers” means persons authorized by any act to carry on any railway, light railway or tramway, road transport, air transport, water transport, canal or inland navigation system, dock, harbour, pier, lighthouse or airport

undertaking or 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 regardless of—

- (a) whether such division is effected by deed of conveyance, transfer, agreement, vesting order, partition order, will or other instrument;
- (b) whether the division is for the purpose of sale, lease, mortgage, gift, devise or any other purpose; or
- (c) whether the division involves any change in the use of any of the parcels,

but is deemed not to include—

- (d) creation of a periodic tenancy for a tenancy from year to year or any lesser period;
- (e) 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) division of any land by means of acquisition under the Land Acquisition Act; or
- (g) division of a cemetery into burial plots;

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

“Tobago House of Assembly” means the Tobago House of Assembly established by section 141A of the Constitution;

“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 designated a “hazardous substance” under the Environmental Management Act;

“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 waste under the Environmental Management Act.

(2) In preparing and implementing the National Physical Development Plan and in administering this Act, all persons shall have regard to the provisions of the Tobago House of Assembly Act.

Objects and purposes
of the Act

3. (1) The objects and purposes of this Act are:

- (a) to provide means whereby plans and related measures may be prepared and adopted;
- (b) to foster awareness that all persons and organizations owning, occupying and developing land are under a duty to use such land with due regard for the wider interests both present and future of society as a whole;
- (c) to assist in the orderly, efficient and equitable planning, allocation and development of the resources of Trinidad and Tobago 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 people of Trinidad and Tobago;
- (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 diverse cultural heritage of Trinidad and Tobago as it finds expression in both the natural and built environments;
- (e) to provide for the orderly subdivision of land for residential as well as non-residential purposes in order to facilitate timely and efficient provision of infrastructure works and public services

(including transportation and utilities) and to ensure that parcels are not divided into under-sized or inappropriately shaped units unfit for rational exploitation;

(f) to provide for the structural and fire safety of buildings and the safety, health and general welfare of persons occupying buildings or using land in proximity thereto;

(g) to provide for planning processes that are fair by making them open, accessible, timely and efficient; and

(h) to encourage cooperation and coordination among various interests for the purpose of achieving the objects stated above.

(2) In the implementation and application of this Act, a broad and purposive interpretation shall be applied.

PART III

GENERAL ADMINISTRATION

4. (1) The Minister is responsible for securing the objects set out in section 3 and for the due administration of this Act. ^{General responsibility of the Minister}

(2) In addition to any other duties assigned to the Minister by this Act, the Minister shall be responsible for framing comprehensive policies and for the general supervision and implementation of such policies in accordance with the provisions of Parts IV, V, VI and VII.

(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.

Establishment of the
Commission

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

(2) The Commission shall be a corporate body 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.

First Schedule

Functions of the
Commission

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

- (a) to advise the Minister with respect to the framing of development policies referred to in section 4(2) and, to secure consistency and continuity in the implementation of policies adopted by the Minister in accordance with Parts IV, V, VI and VII;
- (b) to prepare and keep under review a physical development plan for Trinidad and Tobago (hereinafter referred to as the “National Physical Development Plan”) for the purpose of section 18(1);
- (c) to develop codes of appropriate building construction and land development standards and practices;
- (d) to secure compliance of all persons and agencies with the requirements of the National Physical Development Plan, and the codes and standards referred to in paragraphs (b) and (c);
- (e) to co-ordinate the land development approval process and ensure timely

granting of all approvals required for plans requiring expert professional technical review;

- (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 expeditiously and as transparently as possible;
- (g) to consider and determine applications for permission for the development of land under Part V in respect of—
 - (i) any matter that is not subject to the jurisdiction of the Tobago House of Assembly, by virtue of the Tobago House of Assembly Act;
 - (ii) any matter that is not subject to the jurisdiction of any other planning authority, by virtue of any order made under section 15 of this Act; and
 - (iii) any matter that is not reserved for decision by the Minister in accordance with any directions given by the Minister under section 48 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 include—

- (a) advising the Minister on the preparation of periodic Land Policy Statements to be laid in Parliament;

- (b) providing advice and assistance, to the Minister on policy proposals and legislation affecting the development and utilization of land and land-based 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 subsection (1)(d), ensuring compliance with the requirements of the development

plan and the codes and standards referred to in that paragraph includes—

- (a) assisting with the preparation of 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 meet 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 plans for area of special interest, and describing projects for which applications to develop land are under consideration or have been granted, and any such 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 the
Commission

7. (1) 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) monitor and oversee the effectiveness and status of the National Physical Development Plan and recommend annually to the Minister such amendments to that Plan as may be desired or required;
- (c) prepare periodic evaluation and appraisal reports on the National Physical Development Plan, and submit them to the Minister at least once every five years;
- (d) manage consultations on plans or proposals;
- (e) make investigations, maps and reports (including programmes for development) and make recommendations to the Minister relating to planning and development and for construction of infrastructure as may be desirable;

- (f) submit annually to the Minister, not later than three months before the beginning of each financial year, 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 of it during the forthcoming five-year period;
- (g) adopt and submit for the approval of the Minister appropriate land development regulations and all necessary amendments thereto;
- (h) perform such other functions as the Minister may from time to time assign to give effect to this Act.

(2) 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.

8. The Chairman, Vice-Chairman and other ^{Remuneration} 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 of the Commission ^{Conflicts of interest} who is in any way (whether directly or indirectly) 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.

Committees and
delegation of
functions

10. (1) The Commission may appoint a committee for any of the purposes of this Act, which the Commission thinks would be better regulated and managed by means of a committee and may, with the approval of the Minister, delegate to the committee any of the Commission's powers under this Act.

(2) A committee appointed under this section may include in its membership persons who are not members of the Commission but whose appointment to such committee is approved by the Minister.

Appointment of
Standing
Committees

11. (1) The Commission shall appoint Standing Committees and may delegate to such Committees any of the following functions:

- (a) preparation and keeping the National Physical Development Plan under review;
- (b) developing codes and standards;
- (c) effecting development control; and
- (d) advising on national land policies including—
 - (i) the legislative framework;
 - (ii) policies relating to property taxation; and
 - (iii) policies in respect of land information systems.

(2) The Standing Committee appointed under subsection (1)(c) is hereinafter referred to as the "Development Control Committee".

(3) Any delegation of Authority to a Committee referred to in subsection (1) does not prevent exercise by the Commission of the powers or functions so delegated.

12. (1) The Commission shall appoint a Chief Executive Officer, a Director of Administration, a Secretary, a Legal Officer, a Director of Planning, a Chief Building Officer, and such other officers and employees possessing appropriate qualifications and experience as appear necessary for the proper exercise of its functions.

Appointment of
Officers and Staff

(2) Subject to the provisions of this Act, the Commission, with the approval of the Minister, shall make by-laws relating to the duties of its members, officers, other personnel, and agents.

13. (1) The Commission may, with the approval of the Minister, by written instrument, delegate to the Director of Planning such of its functions under this Act as the Commission considers appropriate.

Delegation to
Director of Planning

(2) Delegation of any authority or function under this section does not prevent exercise by the Commission of such powers or functions so delegated.

14. The Chief Building Officer shall be responsible for enforcement of all building and construction related codes, direction of building inspection procedures, issuance of permits, monitoring of all construction approval procedures, and submission of periodic reports to the Commission on the operation of those functions.

The Chief Building
Officer to be
responsible for
enforcement

Devolution to Local Authorities

15. (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—

Devolution of
development control
and construction
approvals to local
authorities

(a) development control matters as provided for in Part V; and

(b) matters relating to—

- (i) issuance of building and demolition permits;
- (ii) safety of buildings;
- (iii) inspection and approval of work performed on buildings undergoing construction and issuance of occupancy certificates therefor; and
- (iv) inspection and approval of installation of infrastructure and services on land undergoing development,

in accordance with any provisions made therefor under Part VI.

(2) The Minister may approve any such report with or without amendment and, subject to the provisions of section 48, shall, not later than two years after the commencement of this Act, make an order appointing the several local authorities to exercise such functions as the order may specify.

(3) Any Local Authority appointed to exercise functions under subsection (2) or any Local Authority or other authority appointed to exercise functions under section 16 is hereinafter referred to as a “planning authority”.

(4) 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 the order may specify.

(5) The Minister may make provision for the transfer, to any planning authority appointed by an order made under this section, of any liability to pay compensation under this Act in respect of anything done by the planning authority in the exercise of the authority vested in it by such appointment.

16. (1) The Minister may, by written instrument ^{Appointments to prepare development plans} after consulting with the Commission, and subject to such conditions, directions, reservations and restrictions as the Minister considers proper, appoint—

(a) a Local Authority; or

(b) an authority constituted by the Minister,

for the purpose of preparing a development plan other than a development plan for the whole of Trinidad and Tobago or for the Island of Tobago.

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

17. (1) A Local Authority that has been appointed a ^{Delegation of planning functions to officers of local authorities} planning authority may delegate all or any of its functions under Part V to a committee or committees, a sub-committee or an officer of the authority.

(2) Where by this section any functions of a Local Authority are delegated to a committee, unless the Local Authority otherwise directs, the committee may delegate any of those functions to a sub-committee or to an officer of the authority and, where by virtue of this section any functions of a Local Authority are delegated to a sub-committee of the authority, 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) Any delegation by a Local Authority or committee under this section of any functions to a committee, sub-committee, or an officer shall not prevent the authority or committee by which the delegation was made from exercising the functions delegated.

(4) Two or more local authorities may discharge any of their functions under Part V 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 their members or one of their officers.

(5) A delegation of functions under Part V 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 with or without restrictions or conditions; and
- (c) may be withdrawn at any time by the delegating authority (either generally or with respect to a specific application), without prejudice to anything previously done by the officer in exercise of the function.

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

(7) Where, under this section, any functions are delegated to an officer of a Local Authority, any determination by him of an application or other matter 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.

(8) In subsections (5), (6) and (7), “the delegating authority” means a Local Authority or a committee, joint committee or sub-committee of a Local Authority referred to in subsection (5).

PART IV

DEVELOPMENT PLANS

18. (1) In preparing the National Physical Development Plan referred to in section 6(1)(b), the Commission shall ensure that the plan—

Commission to
prepare National
Physical
Development Plan
and other documents

- (a) is consistent with the social, economic, regional, environmental, cultural and other development policies of Government;
- (b) provides the policy framework within which regional and local planning can be undertaken;
- (c) comprehensively draws together and link the functional plans prepared by individual sectoral agencies;
- (d) has as its primary focus—
 - (i) issues of national policy and the co-ordination of functions;
 - (ii) identification of problems and opportunities created by demographic change and industrial and other activity; and
 - (iii) adopts strategies for exploiting resources and opportunities and minimizing of environmental land-use problems resulting from human activity.

(2) The Commission may prepare or cause to be prepared and thereafter keep under review, such other development plans for such regions and areas and on such subjects as would assist in the efficient and equitable planning and management of land.

(3) 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).

(4) The Commission shall ensure that Development Plans are reviewed at least once every five years.

Functions and
content of
development plans

19. (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 is prepared.

(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, showing—
 - (i) areas of land for agricultural, forestry, residential, industrial, institutional, recreational (including national parks), retail (including informal sector activities), office, tourist or commercial uses, or any other class of uses specified in the plan;
 - (ii) conservation areas, environmentally sensitive areas, areas subject to environmental hazards, and areas of special interest;
 - (iii) buffer zones where no construction will be permitted due to

vulnerability of the zone to environmental hazards whether natural or man made;

(iv) areas where development may be premature or unacceptable having regard to lack of water or other services or facilities;

(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 policies and proposals of the development plan;

(e) recommendations for the sequencing or phasing of development within the area covered by 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 for their implementation;

(b) an assessment of the quantity and forms of housing required and estimated to be required in the future by various socio-economic groups, or by that part of the 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 environmental impact statement incorporating a systematic environmental appraisal of policies and proposals having environmental implications as an appendix to the Development Plan.

Conditions governing
appointments to
prepare development
plans

20. (1) Where the Minister appoints a planning authority to prepare a development plan under section 16, matters that may be made the subject of conditions, directions, reservations or restrictions 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) the points or stages in the preparation of the plan when 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) any 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 16, 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 to 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 16(1)(b);
- (e) require two or more planning authorities to prepare a joint development plan of a kind specified in the notice; or require two or more planning authorities which are preparing a joint development plan to cease from doing so and prepare separate development plans of a kind specified in the notice.

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

- (a) at the outset, publish in a newspaper of general circulation, a notice 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 may be obtained on an ongoing basis from persons identified in the notice;
- (b) collect and analyse relevant data and information;
- (c) consult with such persons, bodies and authorities as—
 - (i) are likely to be affected by any proposals of the plan;
 - (ii) wish to make representations; and
 - (iii) constitute or represent the local residents;
- (d) set out clearly and fully all policies, proposals and programmes (including alternatives and reasons therefor) which it is proposed to include in the development plan;
- (e) publish a summary of 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 subsection (1)(c) to the Commission and to any planning authority appointed pursuant to section 16(1) for the purpose of preparing the development plan.

(2) Every agency receiving 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 the preparation of the development plan, regard shall be had to the information and comments provided.

(3) Where the proposed development plan was prepared for a planning authority appointed under section 16(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 (4), upon expiry of the time required for receiving the comments of the authority, the Commission shall—

- (a) give written notice of provisional agreement to the proposed development plan; or
- (b) direct that within six months or such lesser time as the Commission may specify, any or all of the following measures be taken:
 - (i) further work of a kind specified in the directions be undertaken on the proposed development plan;
 - (ii) specified matters be deleted from the proposed development plan;
 - (iii) specified amendments or additions be made to the proposed development plan; and
 - (iv) further consultation of a kind specified be undertaken in respect of the proposed development plan.

(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 notification 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) Notwithstanding the provisions of this section, the Minister or the Commission may, in accordance with section 24, provisionally agree, certify or approve (as the case may be) a proposed development plan, if the Minister or the Commission—

(a) is satisfied, on the whole—

(i) with the technical soundness of the plan; and

(ii) that the process of its preparations was transparent and participatory;
or

(b) is satisfied that technical soundness, transparency and relevant participation in the preparation of the development plan can be secured through approval, certification or granting of provisional agreement to such plan, and that no appropriate plan is likely to be prepared within a reasonable period unless the proposed development plan is so approved, certified or granted provisional agreement.

Provisional
agreement to
proposed
development plan of
local authority

22. (1) Where a proposed development plan adopted by a Local Authority has been given provisional agreement by the Commission pursuant to section 21(4) and, where section 23 applies, by the Minister, the

proposed development plan shall be a provisional development plan for the municipality or local area for which it was prepared, and the Commission shall proceed in accordance with section 24.

(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 persons as the Commission deems suitable as to 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 individual or body and report to the Commission.

(3) Upon receiving a report from any such persons as are mentioned in subsection (2) 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 24.

(4) Where the Commission gives provisional agreement to a proposed development plan under this section, notification of such agreement shall be published in the *Gazette*.

23. (1) Where, in the opinion of the Minister, the objectives of any development plan require that any land be subject to compulsory acquisition, 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 objectives of the development plan;
- (b) the uses to which the designated land will be put;

Designation of land
subject to compulsory
purchase

- (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 the proposed uses.

(2) Before he indicates provisional agreement to a development plan designating any land as subject to compulsory acquisition for achieving the objectives of the development plan, 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 plan, and setting out the information mentioned in subsections (1)(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 encumbrancers of such land.

(3) Any authority or other person desiring to make comments, representations or objections in relation to the proposed compulsory acquisition for the objectives of the plan shall do so within two months of the publication referred to in subsection (2)(a) or of the giving of notice referred to in subsection (2)(b), whichever is the latter.

(4) After receiving any comments, representations or objections pursuant to subsection (3), the Minister may give provisional agreement to such proposed development plan or modification, and the Commission may thereafter, pursuant to section 24,

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

(5) Any designated land in an operative development plan may be acquired as if the acquisition is for a public purpose.

(6) 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—

- (a) that such interest be acquired; or
- (b) that the development plan be amended by rescinding the designation in relation to the affected land,

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.

(7) Nothing in this section prevents—

- (a) acquisition by agreement of any land designated as subject to compulsory acquisition; or
- (b) compulsory acquisition by the State or any authority, under powers contained in any other Act, of any land whether it is designated for compulsory acquisition under this Act or otherwise.

24. (1) Before certifying any provisional development plan, the Commission shall publish a notice in the *Gazette* stating that the Commission proposes to certify

Certifying of
provisional
development plans

the provisional development plan and that any person desiring to make comments, representations or objections in relation to the plan may do so by written submission delivered to the Commission.

(2) The notice referred to in subsection (1) shall state the places where copies of the provisional development plan may be obtained or inspected and a date (not less than six weeks after the date of the publication of the notice) by which any comments, representations, or objections must be received.

(3) Where any comments, representations or objections are received in relation to the provisional development plan, the Commission may provide for a public hearing on the plan and may appoint such person or persons as the Commission deems suitable as hearing officers to conduct such public hearing and to submit a report thereon.

(4) The Commission shall give notice of the hearing to any person submitting comments, representations or objections and shall publish notice of the hearing in at least one daily newspaper.

(5) The notice referred to in subsection (4) shall state—

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

(6) After considering any comments, representations or objections and the report on any hearing, the Commission may—

- (a) certify the provisional development plan with or without amendment; or
- (b) rescind the provisional agreement granted in respect of the development plan, and not certify it.

(7) Where, pursuant to subsection (6) (a), the Commission has certified a provisional 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) any comments, representations and objections received in relation to the plan; and

(ii) the report on any public hearing, together with the comments and recommendations of the Commission; and

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

(8) The Minister may by Order approve a provisional development plan submitted to him under subsection (7).

(9) Where the Minister does not accept any recommendation of the Commission, he shall send a written report of his reasons to the Commission and shall not proceed to reject such recommendation until he has received and considered any reply from the Commission which shall be submitted to the Minister not more than one month after receipt of the Minister's written report.

(10) An Order of the Minister approving the National Physical Development Plan shall be subject to affirmative resolution of Parliament, and an Order approving any other development plan shall be subject to negative resolution of Parliament.

(11) An approved National Physical Development Plan which, when submitted to Parliament, is not approved by affirmative resolution shall cease to be a

provisional development plan and shall not be taken into account as a consideration in any decision taken under this Act in respect of which it is provided that material considerations are required to be taken into account.

(12) Any other approved development plan which is subject to negative resolution of Parliament shall cease to be a provisional development plan if it is the subject of a negative resolution and shall not be taken into account as a consideration in any decision taken under this Act in respect of which it is provided that material consideration are required to be taken into account.

(13) Notice of the approval of a 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.

(14) A development plan or an amendment to a development plan shall become operative on the date on which notice of its approval by Parliament is published in the *Gazette* or on such later date as Parliament may determine.

Recision or
modification of
development plans

25. (1) In any case where the Minister thinks it desirable or expedient, 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 comments, representations, or objections in relation to the proposed recision, the Minister may modify the proposal and make an Order rescinding the whole or any part of the development plan accordingly.

(2) An Order made under subsection (1) *(b)* shall—

- (a)* in the case of an approved development plan for all of Trinidad and Tobago, be subject to affirmative resolution of Parliament;
- (b)* in the case of any approved development plan other than one specified in paragraph *(a)*, be subject to negative resolution of Parliament; and
- (c)* in the case of any provisional development plan, constitute rescission or partial rescission of such provisional development plan.

(3) The Minister may direct that in any case where a proposed modification appears to be minor, the expedited procedure set out in subsection (4), shall apply to preparation of the modification to a development plan.

(4) Where expedited preparation of a modification to a development plan is authorised or directed—

- (a)* any person preparing such modification shall—
 - (i)* publish a notice as specified in section 21(1)*(a)*;
 - (ii)* prepare a draft of the proposed modification;
 - (iii)* consult with sectoral agencies, local authorities, and persons likely to be affected or wishing to make representations; and
 - (iv)* submit to the Commission the proposed modification and a report on consultations held under subparagraph *(iii)*;

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

(5) The provisions of section 24 (with suitable modifications) apply to the certification and approval of a modification to a development plan as they apply to the certification and approval of a provisional development plan.

Role of approved
development plan

26. Unless material considerations such as are referred to in section 35(2) indicate otherwise, 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 matter in respect of which it is provided that material considerations shall be taken into account.

Authority to publish
policy statements

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

(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 making any decision in any matter in respect of which it is provided that material considerations shall be taken into account.

(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 in Parliament with a written statement indicating the nature and extent of such alteration and the reasons for it.

(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 the submission of comments or representations to the Commission either in writing or orally at a hearing to be held not less than thirty 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 received as well as its own recommendations respecting the proposed statement of policy which report and recommendations shall be laid before Parliament together with the statement of policy when made by the Minister.

(6) Any statement of policy that alters the National Physical Development Plan shall be subject to affirmative resolution of Parliament.

(7) Any statement of policy that alters any operative development plan other than the National Physical Development Plan and every statement of policy that alters any development order, or alters any regulation made under this Act shall be subject to negative resolution of Parliament.

Commission to make
plans and reports
available

28. Copies of all reports, development plans, proposed development plans, provisional development plans and amendments thereto referred to in this Part shall be made available by the Commission for inspection and for purchase by the public.

PART V

DEVELOPMENT CONTROL

Meaning of “development”

Meaning of
development

29. (1) In this Act, the expression “development” means:

(a) the act of—

(i) 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;

(ii) making any material change in the use of any building or other land;

(iii) subdividing any land; and

(b) when appropriate to the context, the result of activities specified in paragraph (a).

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

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

- (b)* the carrying out of works required for the maintenance or improvement of a road, within the boundaries of the road, by a highway authority, provided that the level of the road remains unchanged;
- (c)* the carrying out of any work 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), by any Local Authority or statutory undertakers;
- (d)* the use of any building 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 an Order has been made restricting such use in an area of special interest;
- (e)* subject to such exceptions or limitations as the Minister may prescribe by Order, the use of any land for the purposes of agriculture, forestry or aquaculture; and
- (f)* a change in the use of any building or other land from any use within a class defined in an order made by the Minister under section 31(1)(a)(ii) to another use within the same class.

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

(4) Subject to any regulations made under this Act relating to the control of advertisements, and except for signs 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 the use of that part of the building.

Requirement of permission to develop land

Permission required
for development of
land

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

Development Orders and Regulations

Development orders
and regulations

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

(a) by order or regulation, with respect to—

- (i) any development specified in the order or regulation;
- (ii) any class of development specified in the order or regulation; or
- (iii) any land specified or such descriptions of land as are specified in the order or regulation;

(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 where such permission is not granted by any 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 48.

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

(3) Without restricting the generality of subsection (2), a development order or regulation 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 38.

(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 or regulation may direct that—

(a) any written law in force before the coming into operation of this Act; or

(b) any regulation, order or by-law made or adopted after the coming into operation of this Act, under any law referred to in paragraph (a),

shall not apply to any development specified in the development order or regulation, or shall only apply

subject to such modifications and through such administrative procedures as may be specified in the order or regulation.

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

Applications for permission to develop land

Application for
permission to
develop land

32. An application for permission to develop land shall—

- (a) be made in the manner prescribed;
- (b) include such information as is required or as is directed to be provided by the Commission or planning authority; and
- (c) be accompanied by the prescribed fee.

Publicising of certain
applications

33. The Minister may by regulation or in a development order provide in relation to prescribed categories of applications for permission to develop land that—

- (a) any such application shall be notified to such persons or classes of persons as may be prescribed;
- (b) any such application shall be advertised by newspaper or on the land to which the application relates or both in such manner and for such period as may be prescribed;
- (c) the applicant shall furnish, at such times and to such persons as may be prescribed, such information respecting the application as may be prescribed;
- (d) any such application shall be determined only after the expiry of any period which may be prescribed and upon satisfactory proof of compliance with conditions prescribed respecting publicising of the application.

34. (1) Every planning authority shall keep, in such manner as may be prescribed, a register containing such information as may be prescribed with respect to—

- (a) applications made to the authority for permission to develop land, outline development approval, or other approvals required by the regulations or any order; and
- (b) the manner in which such applications have been dealt with.

(2) Regulations may make provision for the register to be kept in two or more parts, each part containing such information relating to applications mentioned in subsection (1)(a) as may be prescribed.

(3) The regulations may also make provision—

- (a) for a specified part of the register to contain copies of applications and of any plans or drawings submitted with them; and
- (b) for the entry relating to any application, and everything relating to it, to be removed from that part of the register when the application (including any appeal arising out of it) has been finally disposed of (without prejudice to the inclusion of any different entry relating to it in another part of the register).

(4) Every register kept under this section shall be available for inspection by the public.

Determination of applications

35. (1) In considering any application made pursuant to section 31(1)(b), the Commission or any planning authority shall take into account—

- (a) the National Physical Development Plan;

- (b) any applicable approved development plan or special plan;
- (c) whether the application pertains to an area of special interest;
- (d) any statement of policy published in accordance with section 27 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) where a certificate of environmental clearance is required under the Environmental Management Act, whether such certificate has been refused or issued and any terms of it;
- (g) 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 special plan;
 - (ii) any representations made by or the results of a survey of members of the public; and
- (h) any other material consideration.

(2) Without restricting the generality of subsection (1)(h), 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 that 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 any 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 persons 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.

Consideration of environmental effects

Consideration of
environmental
effects

36. (1) In this section—

“development proposal” means an application for—

- (a) permission to develop land;
- (b) outline development approval;
- (c) approval of any matter under a development order,

“significant” means having the potential to affect or impair the quality of the environment.

(2) Where the Commission or a planning authority considers a development proposal and decides that it involves significant environmental impacts, the Commission or planning authority may make written findings that such impacts are adequately avoided or mitigated by—

- (a) any environmental analysis and mitigation measures contained in an approved development plan; and
- (b) any environmental requirements in land development regulations or other written laws.

(3) The Commission or a planning authority may make written findings authorised by subsection (2), if—

- (a) the development plan—
 - (i) has considered the significant environmental impacts of the

development proposal and its alternatives; and

(ii) designates environmental thresholds, levels of public services, land-use allocations and development standards;

(b) land development regulations or other written laws include measures that will mitigate or avoid the significant environmental impacts of the development proposal; and

(c) the Commission or planning authority base or condition their approval of the development proposal on a finding of compliance with the development plan and any applicable land development regulations or other written laws.

(4) In deciding whether a specific adverse environmental impact is adequately addressed by any land development regulation or other written law, the Commission or planning authority considering the application shall—

(a) consult the agency responsible for administering that regulation or other written law; and

(b) have regard for any comments made by such other agency respecting environmental impacts of the development proposal.

(5) The Commission or a planning authority may not comply with the requirements of this section by relying on a development plan if—

(a) more than five years have elapsed since the adoption or favorable review under section 18(3) of the development plan; or

(b) significant new circumstances or information require a new study of the environmental impacts of proposals of the development plan.

(6) Subject to subsection (5), nothing in this section limits the authority of the Commission or any planning authority, in their consideration or review of a development proposal, to adopt or otherwise rely on the environmental analyses or requirements in any development plan, land development regulations or other written laws.

(7) The Environmental Management Authority and the Commission may enter into a Memorandum of Understanding with respect to the administration of Environmental Impact Assessments and Certificates of Environmental Clearance, as they relate to a development proposal within the meaning of section 36.

Grant of permission
to develop land

37. (1) The Commission or a planning authority may, after taking into account all material considerations—

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

(2) A determination pursuant to subsection (1) shall be in writing and shall, where subsection (1) *(b)* or *(c)* applies, be accompanied by—

- (a)* a statement of the reasons for the imposition of any conditions or refusal;
- (b)* information with respect to any right of appeal against the determination available to the applicant; and

- (c) advice on possible revisions to or re-submissions of the application as the Commission or planning authority consider proper in the circumstances.

38. (1) Without restricting the generality of section 37(1)(b), a grant of permission to develop land may impose 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 that the Commission or the planning authority deems expedient for the purposes of or in connection with the development authorised by the permission;
- (b) for retention of any existing buildings or other structures or the use of any land to which the application relates for a specified period;
- (c) regulating the times and hours of work during which development authorised by the permission may be carried out;
- (d) providing that the development of land authorised by the permission, shall proceed by stages and specifying those stages;
- (e) requiring, at the expiration of any specified period, removal or demolition of any building or works authorised by the permission, discontinuance of any use of land so authorised, removal of any plant or machinery used in connection with the

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

- (f)* regulating the use which may be made of any building or other land notwithstanding the provisions of any Order made under section 31(1)(a)(ii);
- (g)* for preservation of any buildings, objects and features relating to national or local cultural heritage, natural features, plants and animals on, under, in, or about the land to which the application relates;
- (h)* requiring continuous environmental monitoring of the use or operations authorised by the permission;
- (i)* requiring the applicant to obtain written 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)* providing for payment of money, money's worth or conveyance of land to the State or to such local or other authority as the Minister may direct in lieu of works or provision of services and facilities (including the future maintenance of such facilities) and amenities that could be required as part of the development of land authorised by the permission;
- (k)* 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 43;

- (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 preventing pollution or providing public access to and beside such bed and shore;
- (m) for the furnishing of security by the applicant 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.

39. (1) At least one notice of the grant of permission Display of permission to develop land to develop land shall be prominently displayed and maintained in, on, or about the area being developed on any land undergoing development to which this section applies.

(2) Display of a building permit issued under Part VI 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 where no change of use is contemplated.

Duration of
permission to
develop land

40. (1) Subject to the provisions of this section, any permission to develop land granted or deemed to have been granted before the commencement of this Act shall, if development to which such permission relates was not commenced before January 1, 2000, be deemed to have been granted subject to a condition that development shall be commenced not later than five years after the commencement of this Act.

(2) Subject to the provisions of this section, all permission to develop land granted after the commencement of this Act shall be granted subject to a condition that development shall 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 such permission is granted.

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

- (4) Nothing in this section applies to—
- (a) any outline development approval;
 - (b) any permission to develop land granted by a development order;
 - (c) any planning permission granted before the commencement of this Act where such permission was subject to any condition that the development to which it

relates should commence or be 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 the 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 in section 29 was commenced, whether or not such activity was continued thereafter.

(6) For greater certainty, it is hereby declared that 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 has no force or effect, and any development of land undertaken in reliance on such expired grant constitutes a breach of planning control.

Outline Development Approval

41. (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 erection of buildings or subdivision of land is of such type and scope as may be permitted under any relevant development plan and existing planning policy.

Outline development approval to erect buildings or subdivide land

(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 a planning authority conclude that an outline application should not be considered separately from the details and information required to accompany an application for permission to develop land, the Commission or planning authority shall forthwith notify the applicant that outline development approval cannot be granted and require the applicant to submit an application for permission to develop land under section 32 instead.

(5) The Commission or planning authority shall, in determining an outline application, in so far as is relevant and practicable, have regard to the considerations referred to in section 35.

Duration of outline
development
approval

42. (1) Whenever outline development approval is granted, it shall, unless the outline development approval provides otherwise, be subject to a condition that application for permission to develop land respecting the development concerned must be made not later than one year after the granting of such outline development approval.

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

Planning agreements

43. (1) Where application is made for permission to develop land under section 32, 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 considers appropriate.

(2) Without restricting the generality of subsection (1), an agreement may include—

(a) conditions affecting any matter in respect of which conditions may be imposed on a grant of permission to develop land pursuant to section 37(1)(b);

(b) conditions providing for the furnishing of security by the applicant to ensure due compliance with the terms of the agreement.

(3) An agreement made pursuant to this section with the owner of the land shall be enforceable against the owner and against 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, notwithstanding the absence of any dominant tenement under such agreement.

(4) A record of every agreement made under this section shall be noted in the register of applications maintained under section 34, and such record shall be deemed to be sufficient notice of the agreement for all purposes connected with the enforcement of the agreement in accordance with subsection (3) of this section.

44. Where the Commission or a planning authority Performance bonds requires a bond as security for the performance of any agreement or any condition subject to which permission to develop land is granted, the bond shall be in such form and contain such conditions and be secured with such sureties (including a charge on the land to which the permission or agreement relates) as the Commission or the planning authority considers proper for ensuring that the bond is enforceable.

Supplementary provisions as to enforcement

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

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

Permission to retain or continue unauthorised development

46. (1) The power to grant permission to develop land under this Part includes power—

(a) to grant permission—

(i) to retain or complete any buildings or works constructed or carried out before the date of the application; and

(ii) to continue any use or operation commenced before that date (whether without permission granted under this Part of this Act, or Part III of the former Act, or in accordance with permission granted for a limited period only),

without or subject to such conditions as the Commission or planning authority consider advisable, including a condition that an amount (whether lump-sum or periodic) be paid as compensation to such

persons or authorities affected in their rights or functions by the breach or any result of the breach of planning control as the Commission or planning authority direct;

- (b) to alter, modify or discharge any condition or limitation subject to which any permission to develop land was granted; and
- (c) to determine any purpose for which land may be lawfully used, having regard to its past use and to any permission previously granted to develop the land.

(2) In considering whether to grant permission to retain or continue unauthorised development or use of land, the Commission or planning authority shall have regard to such of the provisions of section 35 as are material to the application.

(3) Any permission referred to in subsection (1)(a) may be granted to take effect from the date when 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.

(4) Where, pursuant to subsection (1)(a), any condition is imposed requiring payment of an amount as compensation in respect of any breach of planning control, the amount may include—

- (a) a sum related to the cost to the State or any authority for the provision of works for the servicing of the development undertaken in breach of planning control;
- (b) a sum related to the cost to the State, any person, or authority for corrective or ameliorative works appropriate for the purpose of abating any nuisance, any

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 unauthorised building or other structure is retained or the unauthorised use or operations are continued in breach of planning control.

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

Effect of grant of permission to develop land

47. (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 in the land, but without prejudice to the provisions of this Part respecting the revocation and modification of permission.

(2) Where, pursuant to the provisions of this Act or of any development order or regulation, an application for permission to develop land is required to be publicised then, any permission granted on such application shall take effect—

- (a) where no notice of appeal is served within the period prescribed for bringing any appeal under Part VIII, upon the expiry of such prescribed period; or

- (b) where notice of appeal was served within the period prescribed for bringing an appeal under Part VIII, upon the final determination or abandonment of the appeal to which such notice of appeal relates.

Powers reserved to Minister

48. (1) Where application is made for permission to develop land, or for the approval of any matter by the Commission or any planning authority under a development order or regulation, and the application—

Minister's powers in relation to planning applications and decisions

- (a) involves issues of more than local importance;
- (b) raises significant architectural or urban design issues giving rise to substantial regional or national controversy;
- (c) may conflict with national policy;
- (d) involves the interest of a foreign government; or
- (e) affects the obligations of Trinidad and Tobago under any treaty or international convention,

the Minister may give directions requiring that the application be referred to him instead of being dealt with by the Commission or the planning authority.

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

- (a) be given to the Commission, or to a particular planning authority or to planning authorities generally; and
- (b) relate either to a particular application or to any or all applications of a class specified in the direction.

(3) Notification of any direction given by the Minister under this section shall be published in the *Gazette*.

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

(5) Subject to subsection (6), where an application for permission to develop land or for outline development approval is referred to the Minister under this section, so far as may be relevant, the provisions of sections 33 to 38 and 41 shall apply as they apply to applications that fall to be determined by the Commission or any planning authority but with the substitution of any reference in those provisions to the Commission or a planning authority of a reference to the Minister, and any other necessary modifications.

(6) Before determining any application referred to him under this section, the Minister shall afford—

(a) the applicant; and

(b) the Commission or any planning authority, if either of them so desire,

an opportunity to appear before and be heard by a person appointed by the Minister for that purpose.

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

49. (1) Subject to subsections (2) to (7), if, in the opinion of the Minister having regard to the considerations mentioned in section 35, it is prudent that any permission to develop land or any outline development approval be revoked or modified, the Minister may by order revoke or modify such 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 permission relates to the carrying out of building or other operations, at any time before such operations have been completed;
- (b) where permission relates to any change in the use of land, at any time before such change has taken place; or
- (c) where permission relates to subdivision of land, at any time before registration of the plan, transfer, deed or other instrument effecting such subdivision under the Real Property Ordinance, the Registration of Deeds Act, or the Registration of Title to Land Act, as the case may be.

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(1950 Rev.)
Chap. 19:06
Act No. 16 of 2000

(3) Where permission to develop land or outline development approval is revoked or modified by an order made under this section, and, 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 authorised 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 such 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, where—

(a) as a consequence of the grant of outline development approval, expense is incurred in the preparation of plans, specifications, studies or reports that are used for the purpose of obtaining permission to develop land; and

(b) such permission to develop land has been revoked or modified,

that expense 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, or in respect of any other loss or damage arising out of anything done or omitted to be done prior to the grant of the permission that was revoked or modified.

(6) Where—

(a) any 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

(b) pursuant to an application made under this Part relating to such 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 upon application made therefor under this Part and was subsequently revoked or modified by order made under this section or by such directions.

(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 Land Acquisition Act Act No. 28 of 1994 shall be reduced by an amount equal to the amount of compensation paid or payable in respect of the works by virtue of subsection (3)(a) of this section, to the end that the owner shall be paid once only for such works.

Securing Compliance with Planning Requirements

50. (1) Where—

(a) the Commission or a planning authority is of the opinion that any development is unlikely to be completed within a reasonable period; and

(b) permission to develop land in respect of that development was granted subject to a condition requiring the development to commence before the expiration of a certain period (whether such condition was imposed by virtue of this Act or otherwise),

Development
completion notice

the Commission or planning authority may, after having taken into consideration such matters as they think proper, serve a notice (hereinafter referred to as a “provisional development completion notice”) stating that the permission to develop land shall cease to have effect at the end of such further period (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 know to the Commission or planning authority 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 variation by substituting some longer period; or
- (c) cancel the notice.

(5) A provisional development completion notice that is confirmed with or without variation shall, from the date of such confirmation, become a development completion notice and shall take effect from that date.

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

(7) The Commission shall consider any representations made by any person on whom the development completion notice was served and may, in their discretion, withdraw the development completion notice at any time before the end of the period specified in such notice for completion of the development.

(8) This section does not apply to permission for any development of land that relates solely to the erection or enlargement of a single-family dwelling.

- 51. (1)** In this section—
- Enforcement of
planning control
- “steps required to be taken in order to prevent or remedy a breach” includes:
- (a)* applying for permission to develop the land;
 - (b)* discontinuing any unauthorised use or development commenced on the land;
 - (c)* requiring any activity on the land to cease except to the extent specified in a notice referred to in subsection (2);
 - (d)* restoring (including re-vegetating) land to its state before the use or development that constitutes the breach of planning control occurred;
 - (e)* making the development comply with any terms or conditions of any permission to develop land granted in respect of the land, including any condition requiring alteration or partial or total demolition of any building or work;
 - (f)* removing any unauthorised marks of identification in, on, or over the land which have as their purpose the identification of a boundary in any subdivision that constitutes a breach of planning control;
 - (g)* removing or alleviating any injury to the land or to amenities of the area caused by the development, including:
 - (i)* carrying out on the land any building or other

operations to alleviate the effects of the breach of planning control;

(ii) removing any waste deposited in breach of planning control and depositing such waste in an authorised place of deposit; and

(iii) covering and altering the contours of any waste deposited in breach of planning control; and

(h) preventing or mitigating damage caused or likely to be caused to the environment or to any plants or animals found in, on, under or about the land on which the development was carried out.

(2) Where the Commission or a 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 remedy provided under this Act, cause—

(a) a compliance notice,

or, where the circumstances described in subsection (6) exist;

(b) an immediate compliance order,

to be served specifying steps required to be taken in order to prevent or remedy the breach.

(3) 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 appearing to be in occupation, possession or control of such land;

(c) any previous owner, occupant or person who has been in possession or control of the

land and whose action or inaction may have caused or contributed to the breach of planning control or to the continuation of such breach; and

(d) any agent or contractor of any person referred to in paragraphs *(a)* to *(d)*, or any other person engaged in any activity on the land, whether or not such person has an interest in the land.

(4) A compliance notice shall specify—

(a) the matters alleged to constitute breach of planning control;

(b) any steps required to be taken in order to prevent or remedy such breach;

(c) a period of not less than twenty-eight days following the date the notice is served within which the steps referred to in paragraph *(b)* are to be taken, and different periods may be specified for different steps; and

(d) any opportunities for the person on whom the notice is served to appeal the notice.

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

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

(a) construction, demolition, or any material change to a building, or any material change in use of any building or other land is occurring or has occurred in the preceding sixty days, without or contrary to any 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—
 - (i) if not immediately stopped or rectified, may constitute a danger or a serious risk of danger to the public or to the life or health of any person; or
 - (ii) is causing substantial impairment of the environment or may cause serious risk of substantial impairment of the environment.

(7) The provisions of subsections (3) and (4) apply, with necessary modifications, to an immediate compliance order as they apply to a compliance notice except that a minimum period of twenty-eight days need not be allowed for compliance with terms of an immediate compliance order.

(8) Any person on whom an immediate compliance order or a compliance notice is served may appeal to the E.C. from such order or notice in accordance with the provisions of section 92.

(9) An appeal to the E.C. referred to in subsection (8) shall not stay the operation of a compliance notice or immediate compliance order.

Withdrawal or
modification of
compliance notice or
immediate
compliance order

52. (1) The Commission or planning authority may at any time withdraw or modify a compliance notice or immediate compliance order but without prejudice to the power of the Commission or planning authority to issue a further notice or order in respect of the same breach of planning control.

(2) If, the notice or order referred to in subsection (1) is withdrawn or modified, the Commission or planning authority shall serve a notice of withdrawal or modification on every person who was served with the compliance notice or immediate compliance order.

53. (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 might 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.

Supplementary provisions as to enforcement

(2) No person who is referred to in subsection (1) or whose predecessor in title was entitled to appeal to the E. C. under section 51(8) but failed to do so shall be entitled, in proceedings under subsection (1) to dispute the validity of the action taken by the Commission or planning authority upon any ground that could have been raised in any such appeal.

54. (1) Any person commits an offence if—

(a) by virtue of a compliance notice or an immediate compliance order, steps are required to be taken in order to prevent or remedy a breach of planning control in relation to any land, and

(b) without the grant of permission in that behalf under this Part,

Offences against compliance notices and immediate compliance orders

he uses the land or causes or permits the land to be used, or carries out or causes or permits the carrying

out of any operation, in contravention of the compliance notice or immediate compliance order.

(2) Any person found guilty of an offence under subsection (1) is liable on summary conviction to a fine of fifty thousand dollars and six months imprisonment, and in the case of a continuing offence, to a further fine of ten thousand dollars for each day after the first day during which the use or operation is continued.

(3) Where a compliance notice or an immediate compliance order has been served on any person and, within the period specified in the compliance notice or immediate compliance order or within such extended period as the Commission or the planning authority may allow, any steps required by the compliance notice or immediate compliance order to be taken have not been taken, that person is liable on summary conviction to a fine of fifty thousand dollars and to six months imprisonment, and in the case of a continuing offence, to a further fine of ten thousand dollars for each day after the first day during which such offence continues.

Effect of
unauthorised
attempt to subdivide

55. (1) Notwithstanding any other law, 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 by so subdividing it is first obtained, but this section does not affect any agreement made subject to an express condition in the agreement that such agreement is to be effective only if permission to develop any land concerned 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) permission is granted, 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 effective for all purposes, notwithstanding that it was granted after the agreement or purported sale.

(3) Where any 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 before or after the grant of permission.

56. 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.

57. (1) Notwithstanding any other provision of this Act, where an environmental hazard exists (and whether or not the Commission has caused a compliance notice to be issued), the Commission may at

any time issue an order (hereinafter referred to as an “environmental repair order”) directed to any of the following persons:

- (a) any owner of the land;
- (b) any person appearing to be 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 the person has any interest in the land.

(2) A copy of the environmental repair order may be provided to any mortgagee or other person having an interest in the land.

(3) Notwithstanding the provisions of any other written law, order, permit, approval, or license, and without prejudice to any power of the Commission under section 51, the Commission may in an environmental repair order require that the person to whom the order is directed, immediately or within a specified period—

- (a) comply with the terms of any relevant permission to develop land;
- (b) do everything practicable or take such action as is specified in the order (whether on land subject to development or in its vicinity) in respect of the prevention, elimination, or amelioration of the environmental hazard and restoration of the environment, including—
 - (i) ceasing or causing the cessation of any development or activity or use of the land or any part of it;
 - (ii) removing any waste deposited without permission and disposing

of such waste in an authorised place of disposal; and

- (iii) removing any fill or restoring the contours of land that have been altered.

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

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

(6) 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 the employer, principal or owner.

(7) A person who in good faith and in a reasonable manner, complies or attempts to comply with an environmental repair order and takes or refrains from taking any action as required by such order shall not be convicted of an offence in respect of the action so undertaken or refrained from.

(8) Any person on whom an environmental repair order is served may appeal to the E. C. against such order in accordance with the provisions of section 91.

(9) An appeal to the E. C. pursuant to sub-section (9) shall not stay the operation of an environmental repair order.

58. Compliance with a compliance notice, an immediate compliance order, or an environmental repair order does not discharge such notice or order, and after compliance or partial compliance with the notice or order has been achieved, any person who has

Continuing efficacy
of compliance notice

notice of the notice or order and acts or permits any action contrary to its terms is liable on summary conviction to a fine of fifty thousand dollars and six months imprisonment and, in the case of a continuing offence, to a further fine of ten thousand dollars for each day after the first day during which such offence continues.

Discontinuance
Orders

59. (1) Where it appears to the Commission or a planning authority that in the interest of proper planning of any area (including the interest of amenity) having regard to the development plan and to other material considerations—

- (a) that any use of land should be discontinued, or that any conditions should be imposed on the continuance of any use of land; or
- (b) that any building or works should be altered or removed,

the Commission or planning authority may by order require the discontinuance of such use, or may impose such conditions on its continuance or require such steps to be taken for the alteration or removal of any building or works as may be specified in the order.

(2) An order under this section may grant permission for development of the land to which the order relates, subject to any conditions specified in the order; and the provisions of section 49 shall apply in relation to permission granted by any order made under this section as they apply in relation to permission granted on an application made pursuant to section 32.

(3) An order made under this section shall take effect only upon confirmation by the Minister whether without or subject to such modifications as he considers expedient.

(4) When the Commission or a planning authority submits an order to the Minister for confirmation under this section, the Commission or planning authority shall serve notice on the owner and occupier of the land to which the order relates, and on any other person who, in their opinion, will be affected by the order; and if within the period specified in the order (not being less than twenty-eight days after service of the order) any person so served requests in writing, the Minister, before confirming the order, shall afford to that person an opportunity of appearing before, and being heard by a person appointed by the Minister for that purpose.

(5) Where an order made under this section was confirmed by the Minister—

- (a) the Commission or planning authority shall serve a copy of the order on the owner and occupier of the land to which the order relates and on any other person who will be affected by the order; and
- (b) any person may, within six months after he was served with the order, submit to the Commission or the planning authority issuing the order a claim for compensation in respect of—
 - (i) depreciation in the value of his interest in the land;
 - (ii) disturbance of his enjoyment of the land; and
 - (iii) expenses reasonably incurred by him in complying with the order,

insofar as the order relates to discontinuance of any lawful use or activity or the removal or alteration of any structure lawfully existing on the land.

(6) Compensation payable under this section shall in default of determination by agreement be

Act No. 28 of 1994

determined in accordance with the procedure set out in the Land Acquisition Act.

(7) Nothing in this section shall be construed as preventing any person from applying to the High Court for judicial review of the decision to issue a discontinuance order.

Protection of trees and woods and regulation of advertisements
Second Schedule

60. The provisions of the Second Schedule shall have effect for the purpose of regulating the display of advertisements out of doors and preservation of trees and woods.

PART VI

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 land 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 within or in the vicinity of buildings.

(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 results 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 may 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 to be made to such buildings in order to achieve compliance, and may prescribe periods within which buildings of any class are required to be brought into conformity to such standards;
 - (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; and
 - (d) such other codes as may be required for safety.

(5) Any code, standard or practice 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 need to reestablish 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,

character, or internal appearance, including any change of ornamentation, colour or design.

Former powers cease upon establishment of building code

62. (1) Upon the commencement of the regulations establishing the building code for Trinidad and Tobago under section 61—

Act No. 21 of 1990

(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, including those provisions respecting the issuance of occupancy certificates; and

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(b) the provisions of the Public Health Ordinance relating to the powers of any Local Authority and the Minister with responsibility for 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 and, thereafter, the power of a Local Authority to regulate building construction and other development of land within their area shall be exercised only in accordance with provisions for authorising construction of buildings and regulating other development of land under this Act.

(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 any method of authenticating any permit, notice, or other instrument issued by such officers.

(3) The authority granted under subsection (2) to any officer of a Local Authority shall be revocable in writing for cause shown.

(4) A grant of authority under subsection (2) to any officer of a Local Authority shall not prevent the exercise of any power by the Chief Building Officer.

(5) Where an officer of a Local Authority is authorised to perform functions of the Chief Building Officer within the area of the Local Authority, the officer shall, not later than two days after he has decided any application for a building permit, provide a copy of his decision to the Local Authority or to such Committee of the Local Authority as the Local Authority by resolution appoints.

(6) The decision of any officer on an application referred to in subsection (5) shall stand automatically confirmed fourteen days after it was provided to the Local Authority unless, prior thereto, the Local Authority or its designated Committee—

- (a) makes written objection to the officer's decision stating reasons why the decision does not comply with the requirements of any code, standard, or other applicable law; and
- (b) provides the officer with a copy of such objection.

(7) Where a Local Authority or its Committee objects in writing to any decision of an officer, the decision, the objection and reasons for it shall be referred to the Chief Building Officer for review under section 70.

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 therefor by or under the authority of the Chief Building Officer.

Conditions governing
issuance and
revocation of permits

64. (1) Upon application for it in the form prescribed, a permit for construction or demolition shall be issued except where—

- (a) 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) the application for the permit is incomplete; or
- (c) any fees due are unpaid.

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

- (a) the permit was issued on the basis of false or incorrect information;
- (b) one year after the issue of any permit, the construction or demolition to which the permit relates has not, in the opinion of the Chief Building Officer, seriously begun; or
- (c) such construction or demolition is, in the opinion of the Chief Building Officer, substantially suspended or discontinued for a period of more than one year.

(3) Nothing in subsection (2) prevents the issue of a new permit following any revocation under subsection (2), if the conditions stated in subsection (1) are satisfied.

(4) No person shall develop land or construct or cause a building to be constructed except in accordance

with the plans, specifications, documents and any other information on the basis of which a permit was issued or any change thereto was authorised.

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

(6) 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 for it from the Chief Building Officer.

65. (1) Upon the completion of any building or other 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 authorised by the building permit has been completed.

(4) A temporary certificate of occupancy shall contain such terms and conditions, shall be subject to such limitations as the Chief Building Officer considers

appropriate, and, except where some other period is expressly 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 any part of a building in respect of which a temporary certificate of occupancy has been issued provided that such occupancy complies with the terms of the temporary certificate of occupancy; and
- (b) to occupy a new building by not more than two caretakers.

Securing compliance
with the provisions of
the code

66. (1) Where any person has contravened any provision of this Part or of the building code, an inspector may issue a written notice to the person requiring compliance with such provision and may require that any work be brought into compliance with such provision forthwith or within such time as the inspector specifies in the notice.

(2) A notice issued under this section shall contain sufficient information to identify the nature of the contravention and its location.

(3) Where an inspector issues a notice under this section, a copy thereof may be affixed to the site of the construction or demolition, and said copy shall not be removed except when authorised by the inspector or Chief Building Officer.

(4) Where a notice issued by an inspector under this section is not complied with within any period therein specified, 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 contravening the provisions of this Part or the building code and such other persons affected as the Chief Building Officer specifies and a copy of the

order shall be posted at the site of the construction or demolition and shall not be removed except when authorised by the inspector or the Chief Building Officer.

(5) Where an order to cease construction or demolition is made by the Chief Building Officer under subsection (4), no person shall perform any act in aid of the construction or demolition of the building or other structure other than such work as is necessary to secure compliance with the notice issued by the inspector under subsection (1).

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

Order not to cover or to uncover

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

(3) The provisions of subsections (3), (4) and (5) of section 66 apply with suitable modifications to an order made under this section as they apply to a notice issued under section 66.

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 of human life, property or the

Powers respecting unsafe buildings

environment) is perceived, enter in or upon any land or premises without a warrant for the purpose of inspecting any building, work, or operation to determine whether such building, work or operation is unsafe.

(2) When an inspector finds that a building, work, or operation is unsafe, he may serve upon the owner and any person apparently in possession of the building or work, or in control of the operation a written order specifying reasons why it is unsafe and measures the inspector requires to be taken in order to render it safe, and the order may require that such measures be carried out within such time as the order specifies.

(3) When an order made under subsection (2) is not complied with within the period specified or, if no time is specified, within a reasonable time—

(a) the Chief Building Officer may, by order, prohibit the use or occupancy of the building or work and the order shall be served on the owner, every person apparently in possession of the building or work, and such other persons as the Chief Building Officer determines may be affected by the order;

(b) a copy of the order prohibiting use or occupancy shall be posted on the building and said copy shall not be removed except when authorised by the inspector or Chief Building Officer.

(4) Where the Chief Building Officer has made any 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.

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

- (a) require that the drawings and specifications of a building or any part thereof, including any drawings prescribed by regulations, be produced for inspection and may require information from any person concerning any matter relating 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 proper 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)(d), a copy of any report on the sample shall be provided to the person from whom the sample was taken.

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

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

- (a) any building or land referred to in section 68 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 authorise the inspector named therein to enter the building or land at any time of any day within one month from the date thereof, accompanied by a constable and assistants and by force if necessary to inspect the building or land, and exercise any of the powers conferred by subsection (1) respecting the premises.

Review by Chief
Building Officer

70. The Chief Building Officer may—

- (a) review and amend, rescind, or confirm any permit, notice, order, or decision issued by an inspector; and
- (b) exercise any of the powers and perform any of the duties of an inspector under this Part.

Appeals respecting
building code and
permit matters

71. (1) Where there is dispute, with respect to the technical requirements of any code referred to in section 61 or as to whether there has been sufficient compliance with such requirements, between—

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

any party to the dispute may appeal to the Commission.

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

72. (1) The presentation of any appeal, under section 71, or any request to the Chief Building Officer to review and amend or rescind any order made by an inspector, under section 70, does not operate as a stay of any order or decision, but, subject to subsection (2), the Commission or the Chief Building Officer may grant a stay pending determination of the matter. When stay of order granted

(2) No stay of any order or decision shall be granted if it may result in—

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

PART VII

LISTING OF PROFESSIONALS AND EXPEDITION AND CO-ORDINATION OF DEVELOPMENT APPROVALS

73. For purposes of this Part—

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

Interpretation of
words used in
Part VII

“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 Part V cannot lawfully commence, proceed, or be completed, or used;

“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 named in a list furnished to the Commission in accordance with section 80 conveying that such registered professional is competent to certify whether any approval submission provided in respect of proposed development satisfies the mandatory requirements of an agency;

“mandatory requirements” means any requirements established by or under any written law or published policy statement, and includes the provisions of any codes incorporated by reference in any of the foregoing 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 Survey 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 any approval submission whereby a registered professional certifies that—

- (a) the registered professional—
 - (i) is listed pursuant to section 80 with the Commission and continues to be qualified for such listing;
 - (ii) has discharged the obligations imposed by section 79 in respect of the approval submission;
 - (iii) has personally examined the approval submission; and
- (b) the approval submission complies with all mandatory requirements for approval;

“simple plans” means plans for—

- (a) the construction under undemanding environmental conditions of—
 - (i) a single family residential building;

(ii) a building comprising multiple residential units; or

(iii) a general purpose building, having a total floor area of three hundred square-metres or less; or

(b) a land subdivision layout comprising less than twenty plots in undemanding environmental conditions, if each plot measures one thousand square-metres or less.

Restrictions on submission of complex applications

74. (1) Except for “simple plans”, within the meaning of section 73, all plans for building construction or other land development—

(a) shall be prepared and submitted to the Commission by a listed professional;

(b) shall be stamped with the name and address of the listed professional under whose professional certificate any approval submission is made; and

(c) shall be signed by such professional.

(2) Documents, sketches, calculations and like material submitted in support of plans shall be stamped with the name and address of the listed professional or shall be similarly authenticated.

Review of approval submissions through Development Control Committee

75. (1) For the purpose of co-ordinating and expediting the development approval process, all approval submissions for building construction and land development (except “simple plans” within the meaning of section 73) shall be reviewed by the Commission through the Development Control Committee established pursuant to section 11(1)(c).

(2) When engaged in reviewing approval submissions, the Development Control Committee or any subcommittee of the Development Control Committee to which the function of reviewing such approval submissions has been delegated shall include representation appropriate for the issuing of final approval or the rendering of binding advice from—

- (a) the Water and Sewerage Authority;
- (b) the Environmental Management Authority;
- (c) the Chief Designs Engineer in the Ministry of Integrated Planning and Development;
- (d) the Highways Division of the Ministry of Integrated Planning and Development;
- (e) the Drainage Division of the Ministry of Integrated Planning and Development;
- (f) the Chief Fire Officer in the Ministry of National Security;
- (g) the Factory Inspectorate Division of the Ministry of Labour, Manpower Development and Industrial Relations; and
- (h) such other agencies as may be designated for any category of development by written direction of the Minister notified in the *Gazette*.

(3) The Minister shall by notice published in at least one daily newspaper and in the *Gazette* notify establishment of the Development Control Committee or the designated subcommittee of that committee comprising membership as specified in subsection (2).

(4) On publication of the notice referred to in subsection (3), the provisions of any written law prescribing any procedure for granting approval or for furnishing advice to any local authority or government agency in respect of construction of buildings or other development of land in relation to matters mentioned in subsection (5) shall forthwith cease to

have effect and, thereafter, the responsibility or authority respecting provision of such advice or exercise of such regulatory or approval powers shall be discharged or exercised only through the Development Control Committee or its designated subcommittee in accordance with procedures established by the Commission.

(5) The provisions of subsection (3), respecting the cessation of the effect of written laws, the future exercise of regulatory or approval powers, and the rendering of advice shall apply to the agencies referred to in relation to the matters indicated below, namely—

(a) the Water and Sewerage Authority in relation to—

(i) the adequacy of any proposed water supply or proposed sanitary facilities under the Public Health Ordinance; and

(ii) discharge of the joint responsibility of the Water and Sewerage Authority with any Local Authority respecting administration of Part V of the Public Health Ordinance under the Water and Sewerage Authority Act,

as these relate to approval of building construction and site development plans and ensuring compliance with standards;

(b) the Environmental Management Authority in relation to the issuing of certificates of environmental clearance in respect of any development of land requiring express grant of permission under Part V of this Act;

(c) the Chief Drainage Engineer in relation to the adequacy of measures proposed for the

general drainage of any area and the adequacy of the proposed drainage for buildings and building lots under the Public Health Ordinance;

- (d) the Chief Fire Officer in relation to ensuring completion of work in conformity to plans approved under the Public Health Ordinance;
- (e) the Chief Designs Engineer in relation to the approval of plans for public buildings under the Public Health Ordinance;
- (f) any agency designated under subsection (2)(h) in relation to such functions relating to the approval of building construction or other development of land as are specified in the designation,

shall forthwith cease to have effect and, thereafter, any power or responsibility respecting provision of advice or exercise of regulatory or approval powers in relation to construction of buildings or other development of land by each such agency shall be exercised only through the Development Control Committee in accordance with procedures established by the Commission.

76. The governing board or council of the professional organisation for each body of registered professionals shall establish minimum levels of professional competence required for the preparation of such categories of approval submissions as may be appropriate.

77. The Commission may, after consulting with any relevant professional organisation, by Order, fix the minimum amount of any performance bond or other financial guarantee required to be provided in respect of professional certification of approval submissions by a listed professional for all or any categories of applications recognised for the purposes of section 76.

Professional organisations to grant certificates of competence

78. The governing board or council of each professional organisation shall, upon the application of any member of the profession—

- (a) determine whether the member satisfies the requirements fixed under section 76 and give or withhold certificates of competence accordingly; and
- (b) give to the Commission written notice of—
 - (i) the name and address of any registered professional who has been granted a certificate of competence; and
 - (ii) particulars of the certificate of competence granted including any limitations or restrictions to which such certificate is subject.

Continuing obligations of listed professionals

79. A listed professional shall—

- (a) file and maintain with the Commission proof of financial responsibility as evidenced by—
 - (i) a policy of professional liability insurance;
 - (ii) the posting of a performance bond; or
 - (iii) the provision of other financial guarantees 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 current mandatory requirements of the relevant agency; and

(c) consult with the relevant agency and its staff, and bear in mind the views of the agency in all circumstances where, to the knowledge of the listed professional, any question arises regarding whether the mandatory requirements are satisfied.

80. (1) The governing board or council of each professional organisation referred to in section 76 shall, Annual lists of holders of certificates of competence not later than 1st March in each year, cause an up-to-date list to be prepared showing—

- (a) the name and address of every holder of a certificate of competence granted by such governing board or council; and
- (b) the categories of applications for approval to which the certificate applies, and any limitations or restrictions to which the certificate is subject.

(2) The secretary of each professional organisation shall send a copy of the list referred to in subsection (1) to the Commission and cause the list to be published in the *Gazette*.

(3) The secretary of each professional organisation shall—

- (a) notify the Commission of all additions or deletions required to be made to the list referred to in subsection (1), forthwith; and
- (b) cause notice of any addition to or deletion from the list referred to in subsection (1), to be published in the *Gazette*, within one month of—
 - (i) the granting of any certificate of competence; or
 - (ii) the noting in any record of the professional organisation of any

termination of the status of a listed professional pursuant to section 82.

Register of listed professionals

81. The Commission shall maintain a comprehensive register of all listed professionals, showing the nature and the category of applications for which each professional was granted a certificate of competence as well as any limitations or restrictions to which such certificate is subject.

Termination of listing

82. All rights, privileges or benefits granted a listed professional under this Part are terminated upon—

- (a) the death of the listed professional, or his retirement from the profession, or his ceasing to be a member in good standing or a licensee of the professional organisation which caused his name to be listed with the Commission;
- (b) a written request of the listed professional that his name be removed from the list furnished to the Commission pursuant to section 80;
- (c) a decision of the professional organisation referred to in paragraph (a), after notice and hearing, that the listed professional has ceased to be qualified to be listed with the Commission by reason of—
 - (i) his lack of knowledge of or inability to work with prescribed mandatory requirements;
 - (ii) his failure to honour any obligation imposed by section 79; or
- (d) lapse, cancellation or other impairment of any professional liability insurance

coverage notified to the Commission, or other financial guarantee provided pursuant to section 79 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 organisation shall so notify the Commission.

83. (1) Where—

(a) a listed professional fails—

(i) to comply with any prescribed mandatory requirement;

(ii) to honour any obligation imposed by section 79; or

(b) other proper cause exists; and

(c) the Commission considers it expedient to terminate the approval submission privileges accorded under section 84 to the listed professional,

Removal from list
upon complaint

the Commission shall by written complaint request the relevant professional organisation to remove the name of the listed professional from the list mentioned in section 80 or from such part of the list as relates to some specified category of approval submissions.

(2) The professional organisation shall require the listed 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 disciplinary procedures.

(3) If, after hearing, it is determined that the complaint of the Commission is established and the listed professional shows no sufficient reason for deciding otherwise, the professional organisation shall direct that the name of the listed professional be

removed from the list of listed professionals in relation to which the complaint of the Commission is established.

Expedition of circulation of applications

84. (1) The Commission may permit a listed professional to undertake distribution of the approval submission to concerned agencies, if the approval submission is made under the professional certificate of the listed professional.

(2) Where a listed professional assumes responsibility for distribution of any approval submission pursuant to subsection (1), he shall submit all plans and documentation to such agencies, in the manner prescribed in section 69.

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

Third Schedule

(4) A professional certificate issued pursuant to this Part shall be in Form 1 in the Third Schedule.

(5) The Commission may—

(a) undertake the circulation of approval submissions referred to in subsection (1) in lieu of permitting the listed professional to do so;

(b) require the applicant to submit an approval submission in such electronically readable form as the Commission specify; and

(c) circulate approval submissions by electronic means.

Reliance on professional certificate

85. The Commission may rely on the professional certificate of a listed professional and, where all discretionary requirements associated with any approval submission have been satisfied, may, as the

Commission consider proper, issue either preliminary or final approval of the approval submission on the basis of such professional certificate.

86. (1) Where permission to develop land or to construct any building has been granted under Part V and, thirty days after submission of all approval submissions, expert technical review of such submissions has not been completed, the Commission may, in their discretion, issue a building permit in reliance on the professional certificate of a listed professional and allow construction to proceed.

Issuing of building permits in reliance of professional certificate

(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.

87. (1) Nothing in section 86 diminishes the authority of the Commission to require that plans or specifications submitted on any application conform to mandatory standards or removes any requirement for ultimate approval of any related work to be evidenced by issuance of an occupancy certificate under section 65 or by such other approval document as may be prescribed.

Effect of permit issued under section 86

(2) Notwithstanding that any work was performed in accordance with the terms of a building permit issued under section 86, the Commission may take all steps necessary to ensure that—

(a) plans and specifications filed in connection with the related approval submission are revised or amended so that they conform to prescribed mandatory standards and with any discretionary requirements associated with said approval submission and, thereafter, the Commission'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 any mandatory standard is altered and made to conform to the approved plans at the cost of the listed professional.

Special building permits issued under secure arrangements

88. (1) Where permission to develop land has been granted under Part V, and the applicant is unwilling or unable to satisfy any requirement specified in writing and applies to the Commission, the Commission—

(a) may require the applicant to provide a report on the matter in issue prepared (at the applicant's expense) by any professional satisfactory to the Commission; and

(b) may require the applicant to furnish a bond or other financial security satisfactory to the Commission to provide assurance that any issue raised by the requirement specified will be resolved to the Commission's satisfaction,

and, upon such security having been furnished, the Commission may issue a building permit.

(2) Notwithstanding the provisions of any other written law of general application, a permit issued under subsection (1), constitutes full legal authority for carrying out the development in accordance with the plans, specifications and conditions specified in such permit.

Statements supporting occupancy certificates

89. For the purpose of issuing an occupancy certificate or other document signifying its approval of any work, the Commission may rely on the written statement of a listed professional regarding the adequacy of such work and its conformity to the plans and specifications approved for it.

PART VIII

PLANNING AND DEVELOPMENT APPEALS

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

Appeals respecting application for permission, consents to display advertisements and preservation and amenity protection orders

(2) An appeal to the E.C. shall be instituted by filing with the Registrar of the E.C. a notice of appeal and serving a copy thereof on 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 unauthorised development or use of land or any person entitled, pursuant to the provisions of section 33(a), to be notified of any such application is entitled to appeal, within twenty-eight 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 unauthorised 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 unauthorised development or use of land,

and the E.C., in making its decision, shall take into account those matters referred to in section 35.

(4) Any owner or occupier of land, or any other persons with a financial interest in the land is entitled to appeal within twenty-eight 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 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 twenty-eight 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 tree preservation order; or

(d) the order to take steps to abate an injury to amenity.

(6) The E.C. shall, in respect of every appeal, decide—

- (a) that the objection of the applicant to the order, notice, decision or other determination 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 should be rejected and that the order, notice, decision or other determination should be confirmed.

91. (1) Subject to the provisions of this Part, any person specified in subsection (3), may appeal to the E.C. 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.

Appeals against
environmental repair
order, compliance
notice or immediate
compliance order

(2) An appeal to the E.C. shall be instituted by filing with the Registrar of the E.C. a notice of appeal and serving a copy thereof on 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 E.C. 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 unauthorised development or use of land under section 46, 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 effecting compliance with the notice falls short of what should reasonably be allowed.

(5) The E.C. shall decide whether the order or notice under appeal should be confirmed, altered or revoked and the decision of the Environmental Commission under this section on any question of fact is final.

Manner of hearing
appeal

92. (1) The E.C. may extend the period during which a person is permitted to give notice of appeal, where, in the opinion of the E.C., 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.

(2) Decisions of the E.C. 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 E.C. 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 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 E.C. shall note the allegation and determine whether to make such correction.

(5) The procedures of the E.C. may be informal and where an appeal has been made to the E.C., the E.C. 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 land 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 E.C. makes any decision; and

(c) inquire into any matter and receive any representations or submissions in writing or orally as the E.C. in its discretion deems appropriate, but nothing in this section shall prevent the E.C. from conducting a hearing on any matter as it sees fit.

(6) On the hearing of an appeal by the E.C., except with leave of the E.C., 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 the provisions of an environmental repair order or immediate compliance order or any requirement set forth in any other order, notice, decision or other determination, or any requirement that development of land cease, but, subject to subsection (8), the E.C. may order a stay upon appropriate terms and, in the case of a stay granted on the grounds set out in section 91(4)(a), the hearing of the balance of the appeal may be adjourned until the disposition of an application under section 46 to retain or continue unauthorised development or use of land.

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

(a) danger to the health or safety of any person;

(b) impairment or serious risk of impairment to 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.

93. (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 E.C. 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 E.C.

Compensation for
immediate
compliance order or
compliance notice

(2) In considering whether compensation ought to be paid, the E.C. 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 or restore the environment;
- (c) reasonable grounds existed for the issue of the compliance notice or immediate compliance order; or
- (d) the requirements in the compliance notice or immediate compliance order 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 E.C. 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 or to restore the environment; or

(c) there were no reasonable grounds for the issue of the compliance notice or immediate compliance order 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 E.C., the requirements stated therein were unreasonable,

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

(4) Notwithstanding subsection (3), compensation shall not be awarded by the E.C. where, in the opinion of the E.C., 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 E.C. to a contrary conclusion.

(5) In assessing the amount of any compensation, the E.C. 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, without regard to whether the requirement for such measures is found by the E. C. to have been justified.

94. (1) The Commission, a Planning Authority or a person entitled to appeal to the E. C. under sections 90 or 91 may, with the leave of a Judge of the Court of Appeal or upon the certificate of the E. C. that the case is a proper one for appeal, appeal a decision of the E. C. 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 other determination appealed, 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.

95. The Commission shall, in the context of appeals of planning decisions, take note of any trends or recurring situations, and, at least once a year, the Commission shall report to the President thereon and on the volume and progress of its work, and in such report the Commission may recommend the review and

modification of any development plan or policy, as it sees fit, and such reports shall be available to the public.

PART IX

SUPPLEMENTAL

Powers of entry

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

- (a) the preparation, approval or amendment of a development plan including the preparation of any survey under Part IV;
- (b) any application under Part V for any permission, consent or determination to be given or made in relation to that land or any other land to which Part V applies;
- (c) any proposal by the Minister, the Commission, or a planning authority to make or serve any notice or order under Part V;
- (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 authorised under this section to enter upon any land shall before so entering produce evidence of his authority, if required, and shall not demand admission 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 ten thousand dollars.

(4) Any person who in compliance with the provisions of this section enters a factory, workshop or work place and subsequently discloses to any person any confidential information respecting any manufacturing process or trade secret thereby obtained is, unless the disclosure is made in the course of performing a duty connected with such entry, shall be liable on summary conviction to a fine of twenty 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 to survey land conferred by this section includes the power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals.

(7) No person shall perform any works specified in subsection (6) unless notice of intention to do so was included in the notice required by subsection (2).

97. (1) Subject to this section, any order, notice or Service of notices other document required or authorised 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 that provides confirmation of receipt.

(2) Where the order, notice or document is required or authorised 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 authorised 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, of the land

or premises, 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, a notice has been given, or any document has been delivered by 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 failure to do or delay in doing anything specified in any order, notice or document, and the order was served, notice was given or other document was delivered by means other than personal delivery, in any 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 never came into his possession, 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 any penalty.

98. (1) For the purpose of making or serving any order, notice or other document authorised or required to be served by this Act, the Minister, the Commission, Authority to demand information

or a planning authority may require the occupier of any land or premises or any person who either directly or indirectly receives rent in respect of such premises, to state in writing within fourteen days—

- (a) the nature of his interest in the land or premises, and the name and address of any other person known to him as having an interest therein whether as freeholder, mortgagee, lessee or otherwise;
- (b) the nature of any activities carried on on the land or premises, the date when the activities commenced, and whether permission to develop land was granted in respect of such activities.

(2) Any person who, having been required under this section to give any information, fails to give such information, or knowingly makes any misstatement in respect thereof, is liable on summary conviction to a fine of ten thousand dollars.

Inspection of
documents

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

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

(3) Any person who was given notice 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 ten thousand dollars.

100. (1) The Minister may make grants to any organization or body that appears to him to be principally concerned with encouraging citizens of Trinidad and Tobago to understand and value, or to take active steps to protect and conserve the built and natural environment, for the purpose of assisting 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 making 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.

101. (1) The Minister may make regulations for any purpose for which regulations are authorised or required to be made under this Act and, in particular— Power to make regulations

- (a) for prescribing the form, size and contents of any notice, order or other document authorised or required by this Act to be made, issued, served or displayed;
- (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 submitted with such applications and the fees payable in relation thereto;
- (d)* with respect to activities that may be carried on in areas of special interest;
- (e)* with respect to reparation areas;
- (f)* with respect to the making and granting of permission under interim tree preservation orders and tree preservation orders;
- (g)* requiring payment of a fee and prescribing the amount of the fee with respect to any action required or authorised under this Act;
- (h)* with respect to matters constituting a material change of use within the meaning of section 35(2);
- (i)* with respect to immediate compliance orders, compliance notices and environmental repair orders;
- (j)* for prescribing activities which constitute engineering operations;
- (k)* for prescribing any substance or waste as toxic;
- (l)* for prescribing any material or condition as waste;
- (m)* 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;
- (n)* for any other matter required to be prescribed under this Act.

(2) Any Regulation made under this Act may provide for the imposition of a fine of up to twenty thousand dollars for contravention of the provisions of the Regulation.

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

102. (1) Any person who—

Offences

(a) assaults, molests, resists, obstructs, threatens, intimidates or hinders, interferes with, or uses indecent, abusive or insulting language to any officer or other person acting under the authority of this Act;

(b) wilfully destroys or defaces—

(i) any official notice or any 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 land; or

(ii) any document, permit, drawing, plan, survey, map or other record required under this Act to be maintained;

(c) refuses or neglects to produce any document, permit, drawing, plan, survey, map or other record required to be maintained under this Act when required to be produced by any officer or other person acting under the authority of this Act;

(d) 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 when required under this Act;

- (e) fails to display or maintain any notice required to be displayed or maintained in accordance with this Act;
- (f) fails to comply with the provisions of any compliance notice or immediate compliance order or causes or permits any contravention of such order or notice to occur or continue;
- (g) fails to comply with the provisions of any environmental repair order or causes or permits a contravention of the order to occur or continue;
- (h) fails to comply with any order made by the Chief Building Officer or an inspector under Part VI; or
- (i) 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 and 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 of the offence and is liable to the same penalties.

(2) Any person who by offer of any gratuity, bribe, promise or other inducement, prevents or influences or attempts to prevent or influence the due performance 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 fifty thousand dollars or to imprisonment for two years or both.

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

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

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

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

(b) the day on which evidence of the offence first came to the attention of the Commission, any planning authority, the Director of Planning, or the Chief Building Officer,

but nothing in this section prevents the Commission or any planning authority from proceeding at any time—

(c) to secure compliance under section 51(6)(c);
or

(d) to remove or abate an environmental hazard under section 57.

103. (1) In any prosecution for an offence against this Act, a copy of any decision, order, direction, notice or other document purporting to have been made under this Act and purporting to have been signed by the person authorised by this Act to issue such decision, 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.

Injunctions and
prohibition orders

104. (1) Where the circumstances set out in subsection 51(6) exist or the Commission or any planning authority are 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 remedy or prevent any breach or further breach of planning control.

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

(3) 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, any planning authority, the Director of Planning, the Chief Building Officer or any inspector is contravened, in addition to any other remedy or penalty prescribed by law, such contravention may be restrained by action on the directions of the Minister, the Commission or the planning authority.

Application of Act to
land regulated by
written laws

105. 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 authorising 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.

106. (1) The written laws mentioned in the First Column of the Fourth Schedule are amended in the manner indicated in the Second Column thereof. Consequential amendments, transition and repeal Fourth Schedule

(2) Where outline planning permission was granted or is 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 end of one year from the commencement of this Act.

(3) The Town and Country Planning Act is hereby repealed. Chap. 35:01

107. This Act binds the State.

Act to bind the State

FIRST SCHEDULE

(Section 5)

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

- (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 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 Society of Planners of Trinidad and Tobago;
- (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 interests;
- (ix) one representing industrial development interests; and
- (x) one representing the Environmental Management Authority,

appointed by the President.

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

- (i) the Commissioner of State Lands under the State Lands Act;
- (ii) one person representing the Tobago House of Assembly;
- (iii) the Director of Planning of the Commission;
- (iv) the Chief Technical Officer, Ministry of Works;
- (v) a representative of the Ministry of Local Government;
- (vi) the Director of Economic Research and Planning (Ministry of Housing and Settlements); and
- (vii) the Chief Executive Officer of the Environmental Management Authority.

(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 any professional or other special interest group, persons appearing to be representative of the interests or the institutions 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.

2. (1) The President may appoint, in respect of each member of ^{Alternate members} 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 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 as long as such absence or inability continues.

3. (1) Whenever the Commission has under consideration a ^{Temporary members} 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 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.

4. (1) Any member of the Commission other than a person in ^{Termination of membership} 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.

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

Execution and
service of Documents

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.

(2) All documents (other than those required by law to be made under seal) may be 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.

Meetings and
procedure

6. (1) The Commission shall meet as often as may be necessary or expedient for the transaction of general business and at such times and places as the Commission may determine.

(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, his presence 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.

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

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

- (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; and
- (c) dues, charges and fees collectable by the Commission in accordance with this Act and the regulations.

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

(2) Borrowing may be effected only with the approval of the Minister of Finance 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 eight hundred thousand dollars or such other amount as may be fixed by resolution of Parliament.

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

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

11. (1) The Commission shall cause proper accounts and records of its transactions and affairs to be kept and shall ensure that all Accounts and records of Commission

payments out of its funds are properly authorised 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.

Examination and
audit by Auditor
General

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

(2) Aside from 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 their accounts and records.

(4) The Auditor General may make copies of or take extracts from accounts, books or other financial records of the Commission.

Annual Report

13. (1) The Commission shall, not later than the 30th day of June in each year submit to the Minister a report of their operations during the previous financial year, with financial statements in respect of that year and the Auditor General's report on those statements.

(2) The report shall give particulars of any directions of the Minister given to the Commission with respect to the exercise of their 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, with the report of the Auditor General are received by him, the Minister shall cause them to be laid before Parliament.

14. (1) The Commission shall, not later than the deadline date Submission of estimates before deadline date stipulated by the Minister of Finance 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.

15. The Commission may, with the approval of the Auditor Bad debts General and the Minister, write off bad debts.

SECOND SCHEDULE

(Section 60)

DEVELOPMENT CONTROL: SPECIAL PROVISIONS

Tree Preservation Orders

1. (1) Where—

(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),

Tree preservation Orders

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 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 extending 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, regardless of whether it is incorporated or not, which in the opinion of the Commission, is knowledgeable about and interested in environmental matters.

Outdoor Advertising

2. (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, with any necessary modifications, in relation to any consent referred to in subparagraph (b) and to any application for such consent, any of the provisions of Part V 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, with any necessary modifications, any of the provisions of Part V with respect to compliance notices.

(2) Subject to paragraph 5, regulations made under this paragraph may apply to advertisements that are being displayed on the date when the regulations come into force and to the use for the display of advertisements of any site that is 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 different provisions of the regulations made under this Act.

(4) Regulations made under this paragraph may direct that any act, regulation or bylaw 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.

Compensation for removal of advertisements in certain circumstances

3. (1) Where the display of advertisements in accordance with regulations made under paragraph 4 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 V.

(2) Where, for the purpose of complying with any regulations made under paragraph 4, 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 on 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 in regulations made under paragraph 2(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 each 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

4. (1) If, in the opinion of the Commission, the amenity of any area is seriously injured by the condition of any garden, vacant Notice to abate injury specified

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 51 to 55 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 51 of the Act.

THIRD SCHEDULE

(Section 84)

CERTIFICATE

(Given pursuant to section 84 of the Planning and Development of Land Act, 2000)

Professional.....Registration 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

.....

Codes of 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 any relevant Authority to be withheld/delayed for any reason.

I HEREBY UNDERTAKE to submit to the National Physical Planning Commission 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.

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 , 20.....

(SEAL)
Signature

FOURTH SCHEDULE

(Section 106)

FIRST COLUMN	SECOND COLUMN
<i>Law to be amended</i>	<i>Amendments to be made</i>
The Land Tribunal Act, No. 15 of 2000 the Schedule	Delete items 2 and 4 in Schedule

Passed in the Senate this day of ,
2001.

Clerk of the Senate

I confirm the above.

President of the Senate

Passed in the House of Representatives this day
of , 2001.

Clerk of the House

I confirm the above.

Speaker

No. 4 of 2001

FIRST SESSION

SIXTH PARLIAMENT

REPUBLIC OF

TRINIDAD AND TOBAGO

BILL

AN ACT relating to the planning and
development of land.

Received and read the

First time.....

Second time.....

Third time.....
