



**BERMUDA
1950 : 27**

**TOWN OF ST GEORGE (PROTECTION OF BUILDINGS OF
SPECIAL INTEREST) ACT 1950**

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SCHEDULE

Description of scheduled area

[6 May 1950]

[preamble and words of enactment omitted]

PART I

Arrangement of Act

- 1 *[omitted]*

Interpretation

- 2 (1) In this Act, unless the context otherwise requires—
 - "alteration", in relation to any building, includes any addition to that building; and cognate expressions shall be construed accordingly;
 - "building" does not include such structures as temporary tents or temporary scaffolding erected for any purpose, or graves or sepulchres, but, subject as aforesaid, includes any structure or erection of whatsoever material and in whatsoever manner constructed, and any part of a building;

"character", in relation to any protected building or any part of the Scheduled Area, means character as respects such qualities as historical or architectural interest, picturesqueness, charm or beauty;

"inspection" includes any measurement or survey necessary to make an inspection effective for the purposes for which it is undertaken; and cognate expressions shall be construed accordingly;

"owner", in relation to any building or land, means any person (other than a mortgagee) who is entitled, either by himself or with other persons, to dispose of the fee simple of the building or land in possession, remainder or reversion;

"protected building" and "protection order" have the meanings respectively assigned to them by section 5;

"the St. George's Preservation Authority", or "the Authority", means the body of persons established under section 3; and

"the Scheduled Area" means the area within the Town of St. George described in the Schedule.

(2) In this Act, unless the context otherwise requires, any reference to the carrying out of any work shall be construed as including a reference to causing or procuring the carrying out of that work.

(3) For the purposes of this Act—

(a) the island known as "Ordnance Island"; and

(b) the bed of that part of the waters of St. George's harbour which lies between Ordnance Island and St. George's Island and which is shown outlined in red in the plan referred to in the Schedule,

shall be deemed to be situated within the Town of St. George.

St George's Preservation Society established

3 (1) For the purposes of this Act there shall be established a body of persons to be called "The St. George's Preservation Authority" who shall have the powers and perform the duties conferred or imposed upon the Authority by or under this Act.

(2) The St. George's Preservation Authority (hereinafter in this Act referred to as "the Authority") shall consist of—

(a) the Mayor of St. George's, who shall be ex-officio the Chairman of the Authority;

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- (b) three persons to be appointed by the Governor from among the members of the Corporation of St. George's; and
- (c) three persons to be appointed by the Governor from among the members of the Bermuda National Trust, that is to say, the body corporate established under that name by virtue of the Bermuda National Trust Act 1969 [title 20 item 10].

For the purposes of this subsection any person lawfully acting in the office of Mayor of St. George's shall, while he is so acting, be deemed to be the Mayor of St. George's.

(3) Each of the members of the Authority appointed by the Governor shall be appointed to hold office for such period as the Governor thinks fit but within such period shall hold office at the Governor's pleasure:

Provided that if any member of the Authority, appointed as being a member of the Corporation of St. George's or of the Bermuda National Trust, ceases to be a member of the Corporation of St. George's or (as the case may be) of the Bermuda National Trust, then his appointment to be a member of the Authority shall thereupon be deemed to have been terminated.

(4) If any member of the Authority other than the Chairman is unable to perform his functions as such, by reason of his illness or absence from Bermuda, the Governor may appoint another person from among the members of the Corporation of St. George's, or (as the case may be) from among the members of the Bermuda National Trust to act for the incapacitated member during the period of his incapacity; and any person so appointed shall while he is so acting be deemed to be a member of the Authority.

(5) At any meeting of the Authority four members shall form a quorum.

(6) If at any meeting of the Authority the Chairman is absent the members present shall elect one of their number to act as chairman at that meeting.

(7) The Authority shall be deemed to be duly constituted notwithstanding the occurrence of any vacancy in their number.

(8) Every question or matter to be determined by the Authority at any meeting shall be decided by a majority of the votes of the members present and voting on the question or matter:

Provided that in the event of an equal division of votes the chairman of the meeting may, if he thinks fit, give a second or casting vote.

(9) The Authority shall be a body corporate under the name of "The St. George's Preservation Authority", with exclusive right to use that name in Bermuda and with perpetual succession under that name, and with power to sue and liability to be sued in their corporate capacity by that name in all courts and with power to have and use a common seal and to renew or vary such seal at pleasure.

(10) in the exercise of the powers conferred upon him by this section the Governor shall act on the advice of the Member for the time being responsible for planning and development and related matters.

PART II

Interpretation of Part II

4 For the purposes of this Part a building shall be deemed to be altered if it is altered in such a manner as to change its external appearance; and, without prejudice to the generality of the foregoing provision, a building shall be deemed to be altered in such a manner as aforesaid if (whether there is any alteration of the main fabric or not) there is altered, moved or removed any external door, any window shutter, glass work, work of ornamentation or utility, or similar work fixture, feature or thing, being a part of or affixed to the building and in any degree affecting its external appearance.

Protection orders

5 (1) If it appears to the Authority that any building within the Scheduled Area is a building of architectural or historical interest then, subject to this section, the Authority may make an order, hereinafter in this Part referred to as a "protection order", directing that without their consent the building shall not be demolished or altered; and any building in respect of which such an order is in force is hereinafter in this Act referred to as a "protected building".

(2) Before making a protection order in respect of any building the Authority shall give notice in writing to every person who is an owner of the building stating that the Authority propose to make a protection order and stating the effect of the proposed order and specifying a period (being a period of not less than twenty-eight days commencing on the date of the notice) within which an owner may lodge an objection to the proposal; and the Authority may serve a copy of any such notice on any person (other than an owner) who appears to them to be a person on whom a copy of the notice should be served.

(3) Where in relation to any building notice has been given in pursuance of the foregoing provisions —

- (a) pending the decision of the Authority as to the making of a protection order or otherwise (as hereinafter provided)

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no person to whom the notice has been given or on whom a copy of the notice has been served shall without the permission in writing of the Authority carry out any work or cause or allow any work to be carried out for the purpose of demolishing or altering the building; and if any such person acts in contravention of the foregoing provision he commits an offence against this Act:

Punishment on summary conviction: a fine of \$840; and the court before which he is convicted may order the person convicted to pay to the Authority such sum as the court thinks just for the purpose of placing the building, as far as may be, in its former condition, and any such order shall be enforceable as if it were a judgment or order given or made under the Magistrates Act 1948 [*title 8 item 15*] :

Provided that it shall not be an offence for a person to carry out or to cause or allow any such work as aforesaid to be carried out in any case where that person is required, or (being a public authority) is authorized, to do so by or under any Act;

- (b) if no objection is lodged by an owner within the period specified in the notice, or within such longer period as the Authority may allow, the Authority may proceed to make a protection order;
- (c) if any owner lodges an objection and if with respect thereto the following conditions are fulfilled, that is to say—
 - (i) the objection is lodged within the said specified period or within such longer period as the Authority may allow; and
 - (ii) the objection is in writing and comprises or is accompanied by a statement in writing of the grounds thereof,

then the Authority shall take the objection into their consideration and shall afford the person objecting, or any person duly authorized by him to act on his behalf an opportunity of appearing before them and of being heard by them with respect to the objection;

- (d) where an objection has been duly lodged and has been considered by the Authority in accordance with paragraph (c) the Authority, according to their conclusions in the matter—

- (i) may refrain from making a protection order and in such case shall cancel the notice; or
- (ii) may proceed to make a protection order.

(4) If it appears to the Authority to be just, having regard to the circumstances of any particular case, the Authority, on the application of any person to whom notice has been given under subsection (2), may extend the period specified in the notice as the period within which an objection may be lodged.

(5) A protection order shall have effect as soon as notice in writing thereof, setting out the effect of the order, has been given to an owner of the building to which the order relates; and the Authority may serve a copy of a protection order on the occupier (if any) of the building to which the order relates or on any other person who appears to the Authority to be a person on whom a copy of the order should be served and every person on whom a copy of a protection order has been served, and every person who after the making of a protection order becomes an owner of the building to which the order relates, shall for the purposes of this Part be deemed to be cognizant of the order.

(6) The Authority may at any time revoke any protection order without prejudice to the making of a further protection order in respect of the same building so, however, that where a protection order is revoked the Authority shall not make a further protection order in respect of the same building until after the expiration of a period of six months from the date of the revocation.

(7) [omitted] [spent]

Offences

6 Where a protection order has been made in respect of any building then any person cognizant of the order (whether by reason of section 5 or not) who, without permission in writing of the Authority, carries out or causes or allows any work to be carried out for the purpose of demolishing or altering the protected building commits an offence against this Act:

Punishment on summary conviction: a fine of \$1,680; and the court before which he is convicted may order the person convicted to pay to the Authority such sum as the court thinks just for the purpose of placing the building, as far as may be, in its former condition, and any such order shall be enforceable as if it were a judgment or order given or made under the Magistrates Act 1948 [title 8 item 15] :

Provided that it shall not be an offence for a person to carry out or to cause or allow any such work as aforesaid to be carried out in any case where that person is required, or (being a public authority) is authorized, to do so by or under any Act.

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Restoration of protected buildings

7 (1) In this section "to restore", in relation to a protected building, means to carry out such work (including any work of demolition) as is necessary to restore the building as near as may be to the form in which, in the opinion of the Authority so far as they are able to judge, it was when it was originally constructed or to the form in which, in the opinion of the Authority so far as they are able to judge, it was prior to any particular alteration; and cognate expressions shall be construed accordingly.

(2) Where it appears to the Authority that a protected building has been altered and that it is desirable, in furtherance of the purposes of this Act, to restore the building, then, subject to this section, the Authority may restore the building accordingly.

(3) Before restoring any protected building the Authority shall give to every person who is an owner of the building at least three months' notice in writing of their intention to do so with particulars of the proposed work of restoration; and if the building is mortgaged the mortgagor shall communicate the substance of the notice as soon as may be to the mortgagee:

Provided that the requirement as to the giving of notice as aforesaid may be dispensed with or modified with the consent of every person entitled to receive such notice.

(4) *[omitted] [spent]*

Repair or maintenance of protected buildings

8 (1) Where it appears to the Authority that a protected building is in need of repair or maintenance the Authority may give notice in writing accordingly to the owner or occupier of the building and may in such notice specify any work of repair or maintenance which the Authority consider should be carried out, the latest date on which the work is to be commenced and the latest date on which the work is to be completed.

(2) Where notice has been given under subsection (1) and the work specified in the notice—

(a) has not been commenced on or before the date specified as the latest date for its commencement; or

(b) has not been completed on or before the date specified as the latest date for its completion,

then the Authority may carry out or (as the case may be) complete the work.

(3) *[omitted] [spent]*

(4) In this section "work of repair or maintenance", in relation to a protected building, includes such work as painting, lime-washing or similar work.

Clearing of land

9 (1) In this section "clearing", in relation to any land, includes clearing the land of weeds, undergrowth and wild vegetation, removing therefrom rubbish or derelict articles, trimming trees, bushes or grass thereon, and generally bringing the land into a decent and seemly condition.

(2) When it appears to the Authority that the lot of land occupied or commonly enjoyed with a protected building is in need of clearing, the Authority may give notice in writing to the owner or occupier of the building notifying him that the lot of land is in need of clearing and that the Authority will proceed to carry out the work of clearing the lot of land unless the work is carried out within a period specified in the notice.

(3) Where notice has been given as mentioned in subsection (2) and the work of clearing the lot of land is not carried out to completion within the specified period then at any time after the expiration of the specified period the Authority may carry out or complete the work of clearing.

(4) [omitted] [spent]

Cutting down trees

10 (1) If the Authority consider that the cutting down, mutilation, or removal of any tree growing within the Scheduled Area, or outside the Scheduled Area but within fifty feet of any part thereof, would be detrimental to the character or amenities of the Scheduled Area, the Authority may by order in writing served on any person who appears to the Authority to be entitled (apart from this section) to cut down, mutilate or remove the tree, prohibit that person from cutting down, mutilating or removing the tree; and if any person on whom such an order has been served cuts down, mutilates or removes a tree in contravention of the order he commits an offence against this Act:

Punishment on summary conviction: a fine of \$336.

Provided that it shall not be an offence for a person to cut down, mutilate or remove any tree in any case where he is required, or (being a public authority) is authorized, to do so by or under any Act.

(2) In this section "mutilation", in relation to a tree, means the cutting or breaking or destruction of any part of the tree so as materially to alter its appearance or materially to injure the tree; and cognate expressions shall be construed accordingly.

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Compensation; protection order

11 (1) In this section—

- (a) "premises", in relation to a protected building, means the protected building together with the lot of land occupied or commonly enjoyed therewith;
- (b) "assessed value", in relation to any premises, means the value of those premises as assessed under the Municipalities Act 1923 [*title 4 item 1*], for the purpose of the levy and collection of municipal rates; and
- (c) "assessment books" means the book or books in which are entered assessments made under the said Act for the purpose aforesaid.

(2) Where a protection order has been made in respect of a building the Authority shall pay compensation as hereinafter in this section provided—

- (a) if there is only one owner of the premises, to the owner;
- (b) if there are two or more owners of the premises to the several owners in such proportion as they may agree upon among themselves or in default of such agreement into the Supreme Court to be dealt with as provided in section 16.

(3) The compensation payable under this section shall be a sum equivalent to one fifth of the assessed value of the premises as shown on the thirty-first day of December, nineteen hundred and forty-nine, in the assessment books of the Corporation of St. George's.

Compensation; restoration of protected building

12 (1) For the purposes of this section—

- (a) "person interested", in relation to a protected building, means any person who is an owner or who is a mortgagee of the protected building; and
- (b) "the prescribed day" has the meaning assigned to it in subsection (2).

(2) Where under section 7 the Authority have restored a protected building, the Authority shall prescribe a day, in this section referred to as "the prescribed day", as the last day on which applications will be received by the Authority for the payment of compensation under this section, being a day not earlier than two months after the completion of the work of restoration, and the Authority shall give not less than six weeks' notice of the prescribed day to every person who is an owner of the protected building.

(3) Where the Authority have restored a protected building then, subject to this section, any person interested may on or before the prescribed day apply to the Authority for the payment to him of compensation on the ground that he has sustained or will sustain, or has sustained and will sustain, financial loss by reason of the restoration.

(4) With respect to applications to the Authority for the payment of compensation and with respect to the payment of compensation under this section the following provisions shall have effect—

- (a) the application shall be in writing and shall set out particulars of the grounds on which compensation is claimed;
- (b) as soon as may be after the prescribed day the Authority shall take the application into their consideration and shall afford the applicant, or any person duly authorized by him to act on his behalf, an opportunity to appear before them and to be heard by them with respect to the application;
- (c) if the Authority after considering the application and any further representations that may be made to them by or on behalf of the applicant are satisfied that the grounds on which compensation is claimed are established and are such that compensation ought to be paid, then, subject to the next following paragraph, the Authority shall pay to the applicant such amount by way of compensation as may be agreed upon between the Authority on the one hand and the applicant on the other hand or, in default of such agreement, such amount as may be determined by arbitrators acting under section 15;
- (d) where there are two or more applicants entitled to compensation under paragraph (c) then, whether they have applied conjointly or separately, the aggregate amount to be paid by way of compensation shall be such amount as may be agreed upon between the Authority on the one hand and all of the applicants on the other hand or, in default of such agreement, such amount as may be determined by arbitrators acting under section 15; and the amount so agreed upon or determined shall be divided by the Authority among the applicants in such proportions as they may agree upon among themselves or, in default of such agreement, shall be

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paid into the Supreme Court to be dealt with as provided in section 15;

- (e) any money paid to a mortgagee by way of compensation shall be regarded as being money paid on account of the mortgage debt, and the mortgage debt shall be reduced accordingly.

Expenses

13 (1) The expenses of carrying out any work of repair or maintenance or any work of clearing where notice has been given by the Authority under section 8, or (as the case may be) section 9 shall, whoever carries out the work or any part thereof, be borne as to one half by the Authority and as to one half by the owner or occupier (whichever is given notice) of the protected building:

Provided that—

- (a) nothing in this section shall be construed as precluding the Authority, where they are satisfied that hardship would otherwise be caused, from paying more than one half of such expenses; and
- (b) nothing in this section shall be construed as precluding either the owner or the occupier from recovering from the other any expenses which are properly payable by the other under the terms of the tenancy or any other agreement between them.

(2) Any sum owing to the Authority by the owner or occupier of a protected building by reason of the operation of this section shall, without limit of amount, be recoverable by the Authority from the owner or occupier before a court of summary jurisdiction in the manner provided in the Magistrates Act 1948 [*title 8 item 15*], for the recovery of a debt or liquidated demand.

Compensation of tenants of protected building

14 (1) Where notice that they propose to make a protection order in respect of any building is given by the Authority under section 5 and there is at the time the notice is given a tenant of the building who under the terms of his tenancy as then subsisting is entitled to demolish or alter the building, then any owner who is the landlord of the tenant shall communicate the substance of the notice as soon as may be to the tenant; and if a protection order is made—

- (a) the tenant may within one month after the making of the order terminate the tenancy by giving three months' notice in writing to the landlord; and

(b) whether he terminates the tenancy or not, the tenant may within one month, or such longer period as the Authority may in particular cases allow, after the making of the order apply to the Authority for the payment to him of compensation on the ground that he will be injuriously affected by the making of the protection order.

(2) Where notice that they intend to restore a protected building is given by the Authority under section 7 and there is at the time the notice is given a tenant of the building, the following provisions shall have effect—

(a) any owner who is the landlord of the tenant shall communicate the substance of the notice as soon as may be to the tenant and to any sub-tenant and subsequently to communicate to the tenant and to any subtenant as soon as may be the date of the prescribed day;

(b) if the work of restoration is such that it will materially interfere with the enjoyment by the tenant or any subtenant of his rights under his tenancy, then the tenant or sub-tenant may at any time not later than one month after the substance of the notice has been communicated to him terminate his tenancy by giving three months' notice in writing to his landlord (that is to say, in the case of the tenant, the original landlord, and in the case of a subtenant, the tenant or a sub-tenant who has sub-let the building or part thereof); and

(c) whether the tenancy or any sub-tenancy is terminated or not, the tenant or any sub-tenant may on or before the prescribed day apply to the Authority for the payment to him of compensation on the ground that he will be injuriously affected by reason of the work of restoration.

(3) With respect to any application for the payment of compensation made to the Authority by a tenant under subsection (1) or by a tenant or sub-tenant under subsection (2)—

(a) the application shall be in writing and shall set out particulars of the grounds on which compensation is claimed;

(b) as soon as may be after receiving the application the Authority shall take it into their consideration and shall afford the applicant, or any person duly authorized by him to act on his behalf, an opportunity to appear before

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them and to be heard by them with respect to the application;

- (c) if the Authority after considering the application and any further representations that may be made to them by or on behalf of the applicant are satisfied that the grounds on which compensation is claimed are established and are such that in all the circumstances of the case, including as respects subsection (1) a bona fide intention on the part of the tenant to demolish or alter the building, compensation ought to be paid, then the Authority shall pay to the applicant such amount by way of compensation as may be agreed upon between the Authority on the one hand and the applicant on the other hand or, in default of such agreement, such amount as may be determined by arbitrators acting under section 15.

(4) Nothing in this section shall be construed so as to preclude a tenant or sub-tenant from terminating his tenancy by giving shorter notice than three months if he is entitled under the terms of his tenancy to give such shorter notice.

(5) In this section "the prescribed day" means the day prescribed by the Authority under subsection (2) of section 12.

Arbitration

15 (1) Where—

- (a) the Authority are unable to agree with the applicant or applicants as to the amount of compensation to be paid in respect of the restoration of a protected building, as mentioned in section 12(4); or
- (b) the Authority are unable to agree with the tenant of a protected building as to the amount of compensation to be paid to him in respect of the making of the protection order, or with the tenant or a sub-tenant of a protected building in respect of the amount of compensation to be paid to him in respect of the restoration of the protected building, as mentioned in section 14(3);

the Authority shall report the matter in issue to the Senior Magistrate with particulars of the claimant or claimants and of the negotiations that have taken place.

(2) Where a report is made to the Senior Magistrate under subsection (1)—

- (a) the Senior Magistrate shall as soon as practicable refer the matter in issue to three arbitrators of whom he

himself or (as he decides) another magistrate shall be chairman and the other two arbitrators shall be persons selected by the Senior Magistrate, being persons who are disinterested and who appear to him to be qualified to discharge the duties of arbitrators under this Part;

- (b) the arbitrators shall appoint a day, time and place for hearing the matter in issue and the chairman shall cause the claimant or claimants to be notified accordingly;
- (c) the chairman of the arbitrators shall preside over the proceedings and shall make a record in writing thereof, and may adjourn the proceedings from time to time as he thinks fit;
- (d) the arbitrators shall have all the powers of a court of summary jurisdiction exercising its civil jurisdiction with respect to compelling the attendance of witnesses and the examination of witnesses on oath;
- (e) any claimant shall be entitled to make representations, touching the matter in issue, to the arbitrators either directly or through counsel or through any person whom the chairman of the arbitrators considers to be a proper person to make representations on his behalf;
- (f) the arbitrators shall hear and determine the matter in issue in a summary way; and if the arbitrators are not unanimous the decision of the majority of them shall prevail; and the decision of the arbitrators shall be final and conclusive;
- (g) the chairman shall communicate the decision of the arbitrators to the claimant or claimants and shall notify the Authority in writing of the decision.

(3) In respect of the sitting of arbitrators to hear and determine matters referred to them fees shall be paid by the Authority as follows—

To the chairman of the arbitrators, for each day's attendance	12.60
To each other arbitrator, for each day's attendance	7.56
To each witness summoned, for each day's attendance	1.80

(4) Where the arbitrators, having regard to the negotiations which have taken place and to all the circumstances of the case, think it is just to do so, they may order any claimant to pay the whole or any

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part of the costs of the arbitration and may enforce any such order in the manner (with necessary modifications) provided for the enforcement of a judgment or order of a court of summary jurisdiction under the Magistrates Act 1948 [*title 8 item 15*].

(5) For the purposes of subsection (4) the costs of arbitration shall be taken to be the amount of the fees payable under subsection (3).

(6) Any money paid by or recovered from a claimant by way of costs as aforesaid shall be paid to the Authority and shall form part of the funds of the Authority.

Payment into Supreme Court

16 (1) Where money is paid into the Supreme Court by the Authority under section 11(2) or section 12(4), the money may on the petition of any person claiming to be entitled thereto, or of any person lawfully representing any such person, be dealt with and disposed of as the Court may think fit; and the Court in directing payment out of court of any such money may impose such terms or conditions as the Court may think proper having regard to the circumstances.

(2) Where money paid into the Supreme Court as aforesaid does not exceed the sum of twelve hundred dollars the powers conferred upon the Court by the foregoing subsection may be exercised by the Chief Justice or by an Assistant Justice in Chambers.

(3) In addition to the payment of money into the Supreme Court in the circumstances mentioned in subsection (1), the Authority shall pay into the Supreme Court any money payable by the Authority by way of compensation where any of the following circumstances exist—

- (a) where the person entitled to the money refuses to accept it when it is tendered to him by the Authority;
- (b) where the person entitled to the money cannot after diligent enquiry be found; or
- (c) where the person entitled to the money is under a legal disability and there is no person enabled by law to receive and give a valid discharge for the money on behalf of the person under a legal disability;

and where money is paid into the Supreme Court in any such circumstances it shall fall to be dealt with and disposed of as if it were money paid into the Court in the circumstances mentioned in subsection (1).

Entry and inspection

17 Where under any of the foregoing provisions of this Act—

(a) a requirement is imposed on any person to carry out or not to carry out any work in relation to a protected building or to land occupied or commonly enjoyed therewith; or

(b) any power is conferred upon the Authority to carry out any work in relation to any such building or land,

any member of the Authority, or any person authorized by the Authority in that behalf, may for the purpose of ascertaining whether the requirement is being fulfilled, or for the purpose of deciding whether the Authority should exercise the power, or for the purpose of exercising the power, at all reasonable times enter the protected building or the land and may carry out any inspection thereof.

PART III

Interpretation of Part III

18 (1) For the purposes of this Part—

(a) "building operation" means—

(i) the construction of a new building; and

(ii) any alteration of the main fabric of an existing building which changes the external appearance of the building;

(b) "building permit" has the meaning assigned to it by section 19; and

(c) "building application" has the meaning assigned to it by section 20.

(2) Nothing in this Part shall be construed so as to prejudice or derogate from the effect of any protection order made under Part II.

Restriction on building

19 (1) No person shall carry out or commence or continue to carry out any building operation within the Scheduled Area except under the authority of a permit (hereinafter in this Part referred to as a "building permit") granted by the Authority; and if any person contravenes the foregoing provision he commits an offence against this Act:

Punishment on summary conviction: a fine of \$84 for each day during which the contravention occurs or continues.

(2) Where a person is convicted of a contravention of subsection (1) the court before which he is convicted may on the application of the Authority, order him to carry out within a period

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specified in the order such work as may be so specified to re-instate (according to the nature of the building operation) —

- (a) the land on which the building is being or has been constructed; or
- (b) the building which is being or has been altered,

in the condition in which it was before the commencement of the building operation.

(3) If a person ordered by a court, in pursuance of subsection (2), to carry out any work of reinstatement fails to carry out the work within the period specified in the order, the Authority may proceed to carry out the work of reinstatement and any expenses incurred by the Authority in carrying out the work shall, without limit of amount, be recoverable from the person in default before a court of summary jurisdiction in the manner provided in the Magistrates Act 1948 [*title 8 item 15*], for the recovery of a debt or liquidated demand.

(4) The restriction on building operations imposed by this section shall have effect in addition to and not in substitution for or in derogation of any restriction or requirement in relation to building operations within the Town of St. George that may be imposed by virtue of the Municipalities Act 1923 [*title 4 item 1*], or any ordinance made thereunder.

Building applications

20 (1) Every application (hereinafter in this Part referred to as a "building application") made to the Authority for the grant of a building permit—

- (a) shall be in writing in such form as the Authority may prescribe and shall be in duplicate;
- (b) shall specify the situation of the proposed new building, or the existing building, to which the application relates;
- (c) shall contain a description of the nature and extent of the proposed building operation, including—
 - (i) where the proposed building operation is the construction of a new building, particulars of the dimensions of the proposed new building; and
 - (ii) where the proposed building operation is an alteration of an existing building, particulars of any changes in the dimensions of the existing building which will result from the carrying out of the building operation.

(2) With respect to any building application, the Authority may by written notice to the applicant require the applicant, as a condition of the consideration of the application, to furnish to the Authority such plans, sketches, specifications or particulars, including particulars of the proposed treatment of the external surfaces of the building, as the Authority consider necessary to enable them to deal satisfactorily with the application, having regard to the purposes of this Act.

Result of application

21 (1) On receiving a building application the Authority shall take it into their consideration and shall by notice in writing communicate their decision to the applicant within a reasonable period, and where they refuse to grant a building permit shall state in the notice the grounds on which their refusal is based.

(2) For the purposes of this section any period exceeding a period of eight weeks after whichever is the later of the following events—

- (a) the receipt by the Authority of the building application submitted in accordance with section 20(1); or
- (b) the fulfilment by the applicant of any requirement imposed by the Authority under section 20(2),

shall, unless the contrary is shown, be deemed to be unreasonable.

Refusal to grant building permit

22 (1) The Authority may refuse to grant a building permit on the ground that the proposed building operation would, by reason of the external appearance or the dimensions of the building (if constructed or altered) in conjunction with its situation, have any of the following results—

- (a) would cause detriment to the aspect, appearance or view of the premises of any protected building; or
- (b) would cause detriment to the character of any part of the Scheduled Area or to the character of any prospect or view in or from any part of the Scheduled Area.

(2) In this section "premises", in relation to a protected building, means the protected building itself together with the lot of land occupied or commonly enjoyed therewith.

Grant subject to conditions

23 Where a building application is submitted and it appears to the Authority that there are grounds for the refusal of a building permit, the Authority, instead of refusing to grant a building permit, may, if they think fit, grant a building permit subject to the observance of such

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conditions (including modifications of the building operation as described or specified in the building application or in any information furnished in connection therewith) as the Authority consider requisite, having regard to the purposes of this Act; and where a building permit is so granted the applicant may proceed to carry out the building operation subject to the observance of the conditions.

Inspection of building operations

24 Where a building permit has been granted and the building operation to which the permit relates is in progress any member of the Authority, or any person authorized by the Authority in that behalf, may at all reasonable times enter the land on which the building operation is being carried out and may inspect the building operation:

Provided that the inspection of a building operation under the foregoing provision shall not of itself operate so as to excuse any failure to carry out the building operation in accordance with the terms of the building permit.

Offences

25 If any person, having been granted a building permit to carry out a building operation, carries out the building operation or any part thereof in a way that is not in accordance with the terms of the building permit, he commits an offence against this Act:

Punishment on summary conviction: a fine of \$840; and where a person is convicted of such an offence the court, on the application of the Authority, may in addition to or in lieu of imposing any fine order him to carry out within a period specified in the order such work as may be so specified to remedy the default; and if that person fails to carry out the work specified within the period specified in the order the Authority may proceed to carry out the work and any expenses incurred by the Authority in carrying out the work shall, without limit of amount, be recoverable from that person before a court of summary jurisdiction in the manner provided in the Magistrates Act 1948 [*title 8 item 15*], for the recovery of a debt or liquidated demand.

Revocation of building permits

26 Where the Authority have granted a building permit and it is subsequently shown to the satisfaction of the Authority that any information contained in the building application or furnished in connection therewith was inaccurate as respects any fact or circumstance which was material to the consideration by the Authority of the building application, then the Authority may revoke the permit.

No appeal lies

27 No appeal shall lie against a refusal on the part of the Authority to grant a building permit, but while they shall always regard the furtherance of the purposes of this Act as the primary consideration in making any decision, the Authority shall not unreasonably refuse to grant a building permit, nor shall the Authority (acting in pursuance of section 23) make the grant of a building permit subject to the observance of unreasonable conditions, nor shall the Authority unreasonably revoke a building permit.

PART IV

Obstruction

28 Any person who wilfully obstructs the Authority or any member of the Authority or any person authorized by the Authority acting in pursuance of any power conferred by this Act to enter any land or building, or to inspect any land or building or building operation, commits an offence against this Act:

Punishment on summary conviction: a fine of \$336.

Authority may acquire land

29 (1) The Authority may acquire by agreement any land situated within the Scheduled Area and may hold any land so acquired, and may hold any land so situated which has been acquired by them by gift or devise; and may sell, exchange, mortgage, lease or let any land acquired and held by them as aforesaid.

(2) The Authority may hold any land situated outside the Scheduled Area which has been acquired by them by gift or devise for any period not exceeding three years, or for such longer period as the Governor may for special reasons allow, and may sell, exchange, mortgage, lease or let any land so held by them.

Application of funds

30 (1) The Authority may receive all funds appropriated by the Legislature for the purposes of this Act and all funds or gifts in kind given or bequeathed to them for the purposes of this Act or given or bequeathed by words showing an intention that the funds or gifts should ensure for the furtherance of the purposes of this Act, and, subject to this section, the Authority shall apply all such funds and gifts or, if any such funds are invested, the income therefrom, to furthering the purposes and administering this Act in such manner as they may think fit.

(2) Subject to this section, the Authority may invest liquid funds received by them by way of gift or bequest, may realize any funds

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received by them in a state of investment and may as respects funds which when received by them are in any investment retain those funds in that investment.

(3) Nothing in this section shall be construed so as to authorize the Authority to deal with any funds or gifts in any manner inconsistent with any condition or direction imposed or given by the Legislature or (as the case may be) the donor or testator with respect to any such funds or gift.

Other powers of Authority

31 The Authority may—

- (a) purchase anything, or to acquire anything (either absolutely or for a period), which is required for the proper discharge of their functions under this Act;
- (b) enter into and carry out any agreements which are necessary or expedient for the purpose of facilitating the proper discharge of their functions under this Act; and
- (c) do all other things that are necessary to facilitate the proper discharge of their functions under this Act.

Service of notices

32 Any notice, order, consent, demand, or other document which is required or authorized by or under any provision of this Act to be given to or served on any person may be given or served—

- (a) by delivering it to that person; or
- (b) by leaving it, or by sending it in a prepaid letter, addressed to that person at his usual or last known place of residence; or
- (c) in the case of a corporate body or other body of persons, by delivering it to the secretary or clerk thereof at their registered or principal office or by leaving it, or sending it in a prepaid letter, addressed to the secretary or clerk at that office;
- (d) in the case of a notice to be given to every person who is the owner of a building, by giving the notice (where practicable) in the manner provided in paragraph (a), paragraph (b) or paragraph (c) and in addition by publishing the notice in two issues of a daily newspaper the second publication being during the week immediately succeeding the week during which the first publication appeared.

Annual report to Governor

33 As soon as may be in each calendar year the Authority shall submit to the Governor for the information of the Legislature a report on the activities of the Authority during the last preceding calendar year; and every such annual report shall include an audited statement of all receipts and expenditures of the Authority in respect of the last preceding calendar year.

Act binding on Crown

34 This Act shall be binding on the Crown.

Parliamentary scrutiny

35 Section 6 of the Statutory Instruments Act 1977 [*title 1 item 3*] shall not apply to any matter prescribed by the Authority.

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SCHEDULE

Description of Scheduled Area

All that area situated within the Town of St. George and delineated on the plan of the said Town which accompanied the Governor's message to the House of Assembly No. 31 of this present session and shown on the said plan outlined in red.

[Amended by
1968 221

1969 698
1977 35]