

THE TOWN AND COUNTRY PLANNING ACT

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TOWN AND COUNTRY PLANNING

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THE TOWN AND COUNTRY PLANNING ACT

[1st February, 1958.]

PART I

Preliminary

1. This Act may be cited as the Town and Country Planning Act.

2. In this Act—

“advertisement” means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of and employed wholly or in part for the purposes of advertisement, announcement or direction, and without prejudice to the foregoing provision includes any hoarding or similar structure used or adapted for use for the display of advertisements, and references to the display of advertisements shall be construed accordingly;

“Authority” means the Town and Country Planning Authority appointed pursuant to section 3;

“Board” means the Compensation Assessment Board established under section 34;

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

Law
42 of 1957,
Acts
42 of 1969
3rd Sch.,
4 of 1976,
6 of 1985,
27 of 1987,
9 of 1991
3rd Sch.,
29 of 1991,
16 of 1993,
3 of 1999.
Short title.

Interpre-
tation.

6/1985
S. 2 (a).

“development” has the meaning assigned to it by section 5, and “develop” shall be construed accordingly;

“improved value” means improved value as defined in the Land Valuation Act;

“Judge” means Judge of the Supreme Court;

“local authority” means—

- (a) in relation to the parishes of Kingston and St. Andrew, the Council of the Kingston and St. Andrew Corporation as constituted under the Kingston and St. Andrew Corporation Act;
- (b) in relation to any other parish, the Parish Council of such parish;

29/1991
S. 2

“local planning authority” means—

- (a) in relation to the parishes of Kingston and St. Andrew, the Council of the Kingston and St. Andrew Corporation;
- (b) in relation to any other parish, the Parish Council of that parish; and
- (c) in relation to any area situated within two or more parishes the person or body that the Minister may in writing appoint;

“Minister” means the Minister responsible for town and country planning;

“planning permission” means the permission for development which is required by virtue of section 10;

“road authority” has the meaning assigned to it by the Road Traffic Act;

“specified date” means such day as may be specified in a development order as the base date for valuations in assessing compensation being not more than one year before the publication in the *Gazette* of the notice under section 5 in relation to the development order under or for the purposes of the preparation of which is done the act in respect of which compensation is to be assessed under this Act;

“statutory undertakers” means persons authorized by any law to carry on any transport undertaking by land or water, or any undertaking for the supply of electricity, gas, hydraulic power or water, or any telephone service.

3.—(1) For the purposes of this Act the Minister shall appoint a person or persons to be the Town and Country Planning Authority, and subject to the provisions of this Act, and from time to time by order published in the *Gazette* define the composition, powers and duties of such Authority.

Appoint-
ment of
Town and
Country
Planning
Authority.

(2) The Government Town Planner shall be a member *ex officio* of the Authority.

16/1993
S. 3 (b).

4.—(1) There shall be established a body to be known as the Advisory Planning Committee, and the members of such body shall be appointed in accordance with the provisions of the First Schedule, and the provisions of that Schedule shall have effect with respect to the constitution and procedure of the Committee.

Constitution
and duty of
Advisory
Planning
Committee.
First
Schedule.

(2) It shall be the duty of the Committee with a view to the proper carrying out of the provisions and objects of this Act, to advise the Minister on any matter within its knowledge or on which the Minister may seek its advice.

PART IA. *Interim Development of Land*

3/1999
S. 3.
Interim
development
order.

4A.—(1) The Minister may, after consultation with a local authority, make an order to be known as interim development order in respect of any land which is not the subject of a confirmed development order, other than land to which a Town and Country Planning (Filling Station) Development Order relates.

(2) An interim development order shall state—

- (a) the description of the area of land to which the order relates;
- (b) the parish in which the land is situated;
- (c) the type of development which may take place within that area without formal planning permission and the conditions, if any, applicable to such development;
- (d) the time when such development may commence;
- (e) the functions of the local planning authority under the order;
- (f) that section 10 (1) (c) shall apply *mutatis mutandis* to an interim development order as it applies to a development order with the modification that the words “paragraphs (a) to (e)” be substituted for the words “paragraph (b)”;

(g) that the order is effective until a confirmed development order comes into operation pursuant to section 7 (2).

(3) An interim development order shall be made without prejudice to any other order relating to development under any other enactment.

(4) For the purposes of subsection (2) (d) the Minister may specify different times for different development.

PART II

Preparation, Confirmation and Modification of Development Orders

5.—(1) The Authority may after consultation with any local authority concerned prepare so many or such provisional development orders as the Authority may consider necessary in relation to any land, in any urban or rural area, whether there are or are not buildings thereon, with the general object of controlling the development of the land comprised in the area to which the respective order applies, and with a view to securing proper sanitary conditions and conveniences and the co-ordination of roads and public services, protecting and extending the amenities, and conserving and developing the resources, of such area.

Preparation
and
notifica-
tion of
provisional
develop-
ment orders.

(2) In this Act, unless the context otherwise requires, the expression “development” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land :

Provided that the following operations or uses of land shall not be deemed for the purposes of this Act to involve the development of the land, that is to say—

- (a) the carrying out of works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially affect the external appearance of the building;
- (b) the carrying out by a road authority of any works required for the maintenance or improvement of a road, being works carried out on land within the boundaries of the road;
- (c) the carrying out by any local authority or statutory undertakers of any works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose;
- (d) the use of any buildings or other land within the curtilage of a dwelling-house for any purpose incidental to the enjoyment of the dwelling-house as such;
- (e) the use of any land for the purposes of agriculture or forestry (including afforestation), and the use for any of those purposes of any building occupied together with land so used;
- (f) in the case of buildings or other land which are used for a purpose of any class specified in a development order under this section, the use thereof for any other purpose of the same class.

(3) So soon as may be after the preparation of any provisional development order, the Authority shall cause to be published in the *Gazette* and at intervals of not less

than seven nor more than ten days in three issues of a local daily newspaper, a notice—

- (a) specifying that the Authority has prepared a provisional development order;
- (b) specifying the locality to which the order relates;
- (c) specifying some place within such locality or as near thereto as may be convenient where the provisional development order and the plan or statements relating thereto may be inspected without fee during such period (not being less than fourteen days after the last publication of the notice in a local daily newspaper) as may be specified in such notice upon such days and at such times as may be so specified;
- (d) specifying the name and address of some person from whom copies of the provisional development order and of the plan or statements relating thereto may be obtained on payment of a reasonable fee specified in such notice; and
- (e) stating that provision is made by section 6 for the making of objections to the provisional development order.

6.—(1) Subject to the provisions of this section every interested person may object to any provisional development order upon the ground that such order is for any reason impractical or unnecessary or that it is against the interests of the economic welfare of the locality to which the provisional development order relates.

**Objections
to
provisional
development
orders**

(2) Every person who desires to object to any provisional development order under this section shall give notice in writing to the Authority within fourteen days after the expiration of the period referred to in paragraph (c) of subsection (3) of section 5 of the ground of his objection and of the facts and reasons upon which he relies in support of such objection.

(3) In this section “interested person” means—

- (a) any local authority concerned;
- (b) any person in whom is vested any freehold estate in any land within the locality to which the provisional development order relates;
- (c) any person in whom is vested any term of years in any land in such locality, the unexpired portion of which on the day on which such objection is made is not less than three years, or who holds an option to renew such lease for a period of not less than three years;
- (d) any person who is entitled under the Water Resources Act to exercise any right in relation to the use of any public water in a public stream within the locality and whose interest therein will be affected by the application of the order.

(4) In this section and sections 7 and 8, unless the context otherwise requires, the expression “development order” includes the plan and statements relating thereto,

and the expression "provisional development order" shall be construed accordingly.

7.—(1) So soon as may be after the expiration of the period during which notice of objection to any provisional development order may be given under section 6 the Authority shall transmit such order and any objection made to such order under section 6 and the comments of the Authority upon such objection (if any) to the Minister.

Confirma-
tion of
provisional
development
orders.

(2) Where the Minister is satisfied that the implementation of any provisional development order is likely to be in the public interest he may by notification published in the *Gazette* confirm it with or without modification and thereupon such order with or without modification shall come into operation as a confirmed development order.

(3) Every notification under subsection (2) shall also be published in a local daily newspaper at least once in each of two successive weeks.

8. Where after a confirmed development order has come into operation the Minister is satisfied—

Amendment
of confirmed
develop-
ment orders.

(a) that it is for any reason necessary or expedient for such order to be amended substantially or so as prejudicially to affect the rights of any person he shall direct the Authority to prepare an amending development order of such a nature as may effect such amendments in the confirmed development order referred to in this section as may be necessary or expedient:

Provided, however, that the provisions of subsection (3) of section 5 and sections 6 and 7 shall apply to every amending development order as they apply to every provisional development order;

- (b) upon a recommendation of the Authority that it is desirable for such order to be modified in any manner not affecting substance and which is not prejudicial to the rights of any interested persons, he may direct the Authority to modify the order in such manner as may be specified in such directions and thereupon the confirmed development order shall be deemed to be and always to have been modified in the manner specified in such directions, without prejudice, however, to anything done under the order before the date of such directions.

Develop-
ment in
interval
between
notification
and
confirma-
tion of pro-
visional
development
orders.

9.—(1) In the interval between the publication in the *Gazette* of a provisional development order and the confirmation of such an order pursuant to section 7 development in the area to which the provisional development order relates may proceed either pursuant to any law (other than this Act) relating to such development and to any authority granted under such law or without any such authority if there is no law (other than this Act) requiring any such authority but upon the understanding that—

- (a) nothing in such authorization or in the preceding provisions of this section shall be construed to be permission to develop for the purposes of this Act or avoid any obligation to apply for permission to develop in conformity with the confirmed development order;
- (b) all the provisions of this Act relating to permissions to develop, including in particular section 15, shall apply accordingly;
- (c) if any development during the interval referred to above is found not to be in conformity with the confirmed development order that order shall prevail in respect of such development.

(2) The reference to development proceeding during the interval referred to in subsection (1) shall include development authorized or lawfully begun without authority prior to the commencement of such interval as well as development authorized or lawfully begun without authority during that interval.

PART III

Contents and Effects of Development Orders

10.—(1) Every confirmed development order (hereafter in this Act called a “development order”) shall—

Contents of
develop-
ment
orders.

- (a) specify and define clearly the area to which it relates;
- (b) contain such provisions as are necessary or expedient for prohibiting or regulating the development of land in the area to which the development order applies and generally for carrying out any of the objects for which the order is made;
- (c) without prejudice to the generality of the provisions of paragraph (b), in particular, make provision for any of the matters mentioned in the Second Schedule;
- (d) provide for the grant of permission for the development of land in the area to which the development order applies, and such permission may be granted—
 - (i) in the case of any development specified in such order, or in the case of development of any class so specified, by the development order itself;
 - (ii) in any other case by the local planning authority (or, in the cases hereinafter

Second
Schedule.

provided, by the Authority) on an application in that behalf made to the local planning authority, in accordance with the provisions of the development order.

(2) The permission granted by any development order may be granted either unconditionally or subject to such conditions or limitations as may be specified in such order.

(3) Without prejudice to the generality of subsection (2), a development order which grants permission for any development may—

- (a) where permission is thereby granted for the erection, extension, or alteration of any buildings, require the approval of the local planning authority to be obtained with respect to the design or external appearance thereof;
- (b) where permission is thereby granted for development of any specified class, enable the Authority or the local planning authority to direct that that permission shall not apply either in relation to development in any particular area or in relation to any particular development.

(4) For the purpose of enabling development to be carried out in accordance with permission granted under this Part, or otherwise for the purpose of promoting proper development, a development order may direct that any enactment passed before the commencement of this Act or any regulations made (whether before or after the commencement of this Act) under any such enactment, shall not apply to any development specified in the order or shall apply thereto subject to such modifications as may be so specified.

11.—(1) Subject to the provisions of this section and section 12, where application is made to a local planning authority for permission to develop land, that authority may grant permission either unconditionally or subject to such conditions as they think fit, or may refuse permission; and in dealing with any such application the local planning authority shall have regard to the provisions of the development order so far as material thereto, and to any other material considerations.

Applica-
tions to
local
planning
authority
for
permission.

(1A) Where the provisions of section 9 of the Natural Resources Conservation Authority Act apply in respect of a development which is the subject of an application under subsection (1), planning permission shall not be granted unless—

9/1991
3rd Sch.

- (a) an application to the Natural Resources Conservation Authority has been made as required by such provisions as aforesaid; and
- (b) that Authority has granted or has signified in writing its intention to grant, a permit under that Act.

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

- (a) for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made) or requiring the carrying out of works on such land, so far as appears to the local planning authority to be expedient for the purposes of or in connection with the development authorized by the permission;
- (b) for requiring the removal of any buildings or works authorized by the permission, or the discontinuance of any use of land so authorized, at the expiration of a specified period, and the carrying

out of any works required for the reinstatement of land at the expiration of that period, and any permission granted subject to any such condition as is mentioned in paragraph (b) is in this Act referred to as permission granted for a limited period only.

(3) Provision may be made by a development order for regulating the manner in which applications for permission to develop land are to be dealt with by local planning authorities, and in particular—

- (a) for enabling the Minister to give directions restricting the grant of permission by the local planning authority, during such period as may be specified in the directions, in respect of any such development, or in respect of development of any such class, as may be so specified;
- (b) for authorizing the local planning authority, in such cases and subject to such conditions as may be prescribed by the order, or by directions given by the Minister thereunder, to grant permission for development which does not appear to be provided for in the order or in any plan or statement deposited with the order and is not in conflict therewith;
- (c) for requiring the local planning authority, before granting or refusing permission for any development, to consult with such authorities or persons as may be prescribed by the order or by directions given by the Minister thereunder;
- (d) for requiring the local planning authority to give to any applicant for permission, within such time as may be prescribed by the order such notice as may be so prescribed as to the manner in which his application has been dealt with;
- (e) for requiring the local planning authority to furnish to the Minister and to such other persons as

may be prescribed by or under the order, such information as may be so prescribed with respect to any application for permission made to them, including information as to the manner in which such application has been dealt with.

(4) Every local planning authority shall keep, in such manner as may be prescribed by the development order a register containing such information as may be so prescribed with respect to applications for permission made to such authority, including information as to the manner in which such applications have been dealt with; and every such register shall be available for inspection by the public at all reasonable hours.

12.—(1) The Authority may give directions to any local planning authority or, to local planning authorities generally requiring that any application for permission to develop land, or all such applications of any class specified in the directions, shall be referred to the Authority instead of being dealt with by the local planning authority, and any such application shall be so referred accordingly.

Reference
of applica-
tions to the
Authority.
27/1987
S. 3.

(1A) Where an application to a local planning authority seeks permission for a development which is not in conformity with the development order, that application shall be deemed to be one required to be referred by the local planning authority to the Authority under this section.

16/1993
S. 4.

(2) Where an application for permission to develop land is referred to the Authority under this section, the provisions of section 11 and of subsection (4) of section 13 shall apply, subject to any necessary modifications, in relation to the determination of such an application by the Authority as they apply in relation to the determination by the local planning authority:

Provided that before determining such application the Authority shall, if either the applicant or the local planning authority so desire, afford each of them an opportunity of

appearing before and being heard by a person appointed by the Authority for the purpose.

Appeals to
Minister.

13.—(1) Where application is made under this Part to a local planning authority for permission to develop land or where such application is referred to the Authority under the provisions of section 12, and that permission is refused by the local planning authority or the Authority, as the case may be, or is granted subject to conditions, then if the applicant is aggrieved by the decision so taken he may by notice served within the time, not being less than twenty-eight days from the receipt of the notification of the decision, and in the manner prescribed by the development order, appeal to the Minister and the Minister may, subject to section 28A, hear the appeal:

3/1999
S. 4 (a).

Provided that the Minister shall not be required to entertain an appeal under this subsection in respect of the determination of an application for permission to develop land if it appears to him that permission for that development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the provisions of section 11 and of the development order, and to any directions given under that order.

3/1999
S. 4 (b).

(1A) An applicant who appeals to the Minister under subsection (1) shall at the time of lodging the appeal, pay the prescribed fee.

3/1999
S. 4 (c).

(2) Where an appeal is brought under this section from a decision of a local planning authority or the Authority, the Minister shall make a determination within ninety days of the hearing thereof and may allow or dismiss the appeal or may reverse or vary any part of the decision of the local planning authority, or the Authority, as the case may be, whether or not the appeal relates to that part, and deal with the application as if it had been made to him in the first instance.

(3) Before determining any such appeal, the Minister shall, if either the applicant or the authority concerned so desire, afford to each of them an opportunity of appearing before and being heard by him.

(4) Unless within such period as may be prescribed by the development order, or within such extended period as may at any time be agreed upon in writing between the applicant and the local planning authority, the local planning authority either—

- (a) give notice to the applicant of their decision on any application for permission to develop land, made to them under this Part; or
- (b) give notice to him that the application has been referred to the Authority in accordance with directions given under section 12,

the provisions of subsection (1) shall apply in relation to the application as if the permission to which it relates had been refused by the local planning authority and as if the notification of their decision had been received by the applicant at the expiration of the period prescribed in the development order or the extended period agreed upon as aforesaid, as the case may be.

14.—(1) If any person who proposes to carry out any operations on land or make any change in the use of land wishes to have it determined whether the carrying out of those operations or the making of that change in the use of the land would constitute or involve development of the land within the meaning of this Act, and, if so, whether an application for permission in respect thereof is required under this Part having regard to the provisions of the development order, he may, either as part of an application for such permission, or without any such application, apply to the local planning authority to determine that question.

Applica-
tions to
determine
whether
permission
required

(2) The foregoing provisions of this Part shall, subject to any necessary modifications, apply in relation to

any application under this section and to the determination thereof as they apply in relation to applications for permission to develop land and to the determination of such applications.

**Provisions
relating to
grant of
permission.**

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

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

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

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

(5) Where permission to develop land is granted under this Part for a limited period, nothing in this Part shall

be construed as requiring permission to be obtained thereunder for the resumption, at the expiration of that period, of the use of the land for the purpose for which it was normally used before the permission was granted:

Provided that in determining for the purposes of this subsection the purposes for which land was normally used before the grant of permission, no account shall be taken of any use of the land begun in contravention of the provisions of this Part.

PART IV

Compensation for refusal or conditional grant of planning permission

16. In this Part “planning decision” means a decision made on an application for permission to develop land under Part III. “Planning decision” defined.

17.—(1) Where, on application made under Part III for permission to carry out development of land, permission is refused by the Minister on appeal being made to him, or granted by the Minister subject to conditions, then if on a claim made to the Authority in the manner prescribed by regulations under this Act, it is shown that the value of the interest of any person in the land is less than it would have been if the permission had been granted, or had been granted unconditionally, as the case may be, the Authority shall (subject to the provisions of this Part) pay to that person compensation (to be assessed in accordance with and subject to the provisions of the Third Schedule) equal to the difference. Compensation for refusal of permission in certain cases.

(2) In determining for the purposes of subsection (1) whether and to what extent the value of any interest in land is less than it would have been if the permission had been granted or had been granted unconditionally, it shall be assumed that any subsequent application for like permission would be determined in the same way:

Provided that if, on the refusal of permission for the development in respect of which application is made, the

Minister undertakes to grant permission for any other development of the land in the event of an application being made in that behalf, regard shall be had to that undertaking in determining the matters aforesaid.

Compensation excluded in respect of certain matters.

18. Compensation under this Part shall not be payable—
- (a) in respect of the refusal of permission for any development which consists of the making of any material change in the use of any buildings;
 - (b) in respect of the imposition, on the granting of permission to develop land, of any condition relating to—
 - (i) the number or disposition of buildings on any land;
 - (ii) the dimensions, design, structure or external appearance of any building or the materials to be used in its construction;
 - (iii) the manner in which any land is to be laid out for the purposes of the development, including the provision of facilities for parking, loading, unloading or fuelling of vehicles on the land;
 - (iv) the use of any buildings or other land; or
 - (v) the location or design of any means of access to a highway, or the materials to be used in the construction thereof;
 - (c) in respect of any condition subject to which permission is granted for the winning and working of minerals;
 - (d) in respect of the refusal of permission to develop land if the reason or one of the reasons stated for the refusal is that development of the kind proposed would be premature by reference to either or both the following matters, that is to say—
 - (i) the order of priority, if any, indicated in the development order for the area in

which the land is situated for development in that area;

- (ii) any existing deficiency in the provision of water supplies or sewerage services and the period within which any such deficiency may reasonably be expected to be made good;
- (e) in respect of the refusal of permission to develop the land if the reason or one of the reasons stated for the refusal is that the land is unsuitable for the proposed development on account of its liability to flooding or to subsidence;
- (f) in respect of the refusal of permission to develop the land, unless the improved value of the land is reduced as a result of the refusal or the conditions attached to a consent, to less than it was on the specified date as defined in section 2;
- (g) where the proposed development is prohibited by the provisions of any law in operation at the date of the decision of the Board.

6/1985
S. 4 (a).

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

Compensation excluded if certain other development permitted.

Provided that where such permission is available with respect to part only of the land, this section shall have effect only in so far as the interest subsists in that part.

(2) Where a claim for compensation under this Part is made in respect of an interest in any land, planning permission for development to which this section applies shall be taken for the purposes of this section to be available with respect to that land or a part thereof if, within one month after the Board give notice to the Minister of their findings in respect of that claim, there is in force

6/1985
S. 4 (a).

with respect to that land or part, a grant of, or an undertaking by the Minister to grant, planning permission for some such development, subject to no conditions other than such as are mentioned in paragraph (b) of section 18.

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

Procedure
for making
claims for
compensa-
tion.

20.—(1) Compensation under this Part shall not be payable unless a claim is made before the end of the period of six months beginning with the date of the planning decision to which it relates :

Provided that the Minister may in any particular case (either before, on or after the date on which the time for claiming would otherwise have expired) allow an extended, or further extended, period for making such a claim.

(2) The Minister may make regulations under this section—

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

(3) Any claim for such compensation in respect of a planning decision shall be sent to the Authority; and it shall be the duty of the Authority, as soon as may be after the

receipt of a claim, to transmit the claim to the Board and to furnish the Board with— 6/1985
S. 4 (a),
(b), (c).

- (a) any evidence or other information provided by the claimant in accordance with regulations made under this section;
- (b) such other information (if any) as may be required by regulations made under this section, being information appearing to the Board to be relevant to the exercise of their powers under section 21.

(4) Where a claim is transmitted to the Board under subsection (3)— 6/1985
S. 4 (a),
(b).

- (a) and it appears to the Board that compensation is excluded either by section 18 or section 19, the Board shall notify the claimant accordingly, stating on which of the grounds it appears to them that compensation is not payable, and inviting the claimant to withdraw his claim;
- (b) unless the claim is withdrawn, the Board shall give notice of the claim to every other person (if any) appearing to them to have an interest in the land to which the planning decision related.

21.—(1) The provisions of this section shall have effect where the Authority has transmitted to the Board in accordance with the provisions of section 20 one or more claims for compensation in respect of a planning decision, and the claim or (if there is more than one) one or more of such claims, has not been withdrawn. Notification
to Minister
of findings
of Board.
6/1985
S. 4 (a), (b).

(2) Before taking a decision under this section in respect of any such claim the Board shall afford to the Authority and the local planning authority concerned and to every other person appearing to them to have an

interest in the land to which the planning decision related, an opportunity to appear before, and to be heard by, the Board.

6/1985
S. 4 (a) (b).

(3) If in any case, the Board come to the conclusion that the claim for compensation is valid the Board shall forthwith give notice to the Minister of their findings in respect of that claim; and within one month thereafter the Minister may either—

- (a) where it appears to him that permission could properly be granted (either unconditionally or subject to certain conditions) for some development of the land in question other than the development to which the application for permission related, give a direction that the provisions of this Act shall have effect in relation to that application and to the planning decision—
 - (i) as if the application had included an application for permission for that other development and the decision had included the grant of permission (unconditionally or subject to the said conditions, as the case may be) for that development; or
 - (ii) as if the decision had included an undertaking to grant permission unconditionally or subject to the said conditions (as the case may be), for that development, as may be specified in the direction; or
- (b) offer to purchase the land, or if the owner is unwilling to sell it, take steps to cause such land to be acquired compulsorily, as land deemed to be needed for a public purpose, in accordance with the provisions of the Land Acquisition Act, save that the compensation payable shall be assessed in accordance with the provisions of this Act, in-

cluding the provisions of the Third Schedule, and not in accordance with the provisions of the Land Acquisition Act; or

Third
Schedule.

(c) direct the Authority to pay the compensation assessed by the Board, and the Authority shall give effect to such direction.

6/1985
S. 4 (a)

(4) Any expenses incurred by the Authority in relation to the payment of compensation claims under this Part shall be paid from the Consolidated Fund.

(5) The Authority, a local planning authority or any person aggrieved by a decision of the Board under this section may appeal against that decision to a Judge in Chambers whose decision in the matter shall be final.

6/1985
S. 4 (a) (b).

PART V

Revocation and Modification of permission to develop and enforcement of planning control

22.—(1) Subject to the provisions of this section, if it appears to the local planning authority that it is expedient, having regard to the provisions of the development order and to any other material considerations that any permission to develop land granted on an application made in that behalf under Part III should be revoked or modified, they may by order revoke or modify the permission to such extent as appears to them to be expedient as aforesaid:

Power of
local
planning
authority
to revoke
or modify
planning
permission.

Provided that no such order shall take effect unless it is confirmed by the Minister, and the Minister may confirm any order submitted to him for the purpose either without modification or subject to such modifications as he considers expedient.

(2) Where a local planning authority submit an order to the Minister for his confirmation under this section, that authority shall serve notice on the owner and on the

occupier of the land affected by the order; and if within such period as may be prescribed in that behalf in the notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Minister shall before confirming the order, afford to him, and to the local planning authority, an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose.

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

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

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

(4) Where permission to develop land is revoked or modified by an order made under this section, then if, on a claim made to the Authority within the time and in the manner prescribed by regulations under this Act, it is shown that any person interested in the land has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification, or has otherwise sustained loss or damage which is directly attributable to the revocation or modification, the Authority shall pay to that person compensation in respect of that expenditure, loss or damage:

Provided that no compensation shall be payable under this subsection in respect of loss or damage consisting of

the depreciation in value of any interest in the land by virtue of the revocation or modification.

(5) For the purposes of this section, any expenditure incurred in the preparation of plans for the purposes of any work or upon other similar matters preparatory thereto shall be deemed to be included in the expenditure incurred in carrying out that work, but except as aforesaid no compensation shall be paid under this section in respect of any work carried out before the grant of the permission which is revoked or modified, or in respect of any other loss or damage (not being loss or damage consisting of the depreciation in value of an interest in land) arising out of anything done or omitted to be done before the grant of that permission.

(6) Where permission for the development of land granted by a development order has been withdrawn, whether by the revocation or amendment of the order or by the issue of directions under powers in that behalf conferred by the order then, if, on an application made in that behalf under Part III permission for that development is refused or is granted subject to conditions other than those previously imposed by the development order, the provisions of subsections (4) and (5) shall apply as if the permission granted by the development order had been granted by the local planning authority under Part III and had been revoked or modified under subsections (1), (2) and (3).

(7) Where the permission which is revoked or modified by an order under this section is permission such as is mentioned in subsection (1) of section 17 the provision of that section shall apply as if for references therein to the refusal of the permission or the imposition of conditions on the grant thereof there were substituted references to the revocation of permission or the modification thereof by the imposition of conditions and subsection (1) shall have effect

as if for the words “if the permission had been granted, or had been granted unconditionally” there were substituted the words “if the permission had not been revoked or had not been modified”.

(8) Where by virtue of the provisions of this section compensation is payable in respect of expenditure incurred in carrying out any work on land, then if the Minister takes steps for the purchase of such land, or a claim for compensation is made under subsection (1) of section 17 any compensation payable in respect of the acquisition of the land or, as the case may be, the claim for compensation under subsection (1) of section 17, shall be reduced by the amount equal to the value of the works in respect of which compensation is payable under this section.

Stop
notice.
3/1999
S. 5.

22A.—(1) Where it appears to a local planning authority, the Government Town Planner or the Authority that a development specified in subsection (2) is unauthorized or is hazardous or otherwise dangerous to the public, the local planning authority, the Government Town Planner or the Authority, as the case may be, shall serve or cause to be served on any of the persons specified in subsection (3), a stop notice requiring that person to immediately cease the development.

(2) A development referred to in subsection (1) is a development—

- (a) which is being carried out in breach of a condition subject to which planning permission was granted; or
- (b) which is being carried out without the grant of planning permission.

(3) The persons on whom a stop notice may be served are—

- (a) the owner or occupier of the land whereon the development is taking place or has taken place; or
- (b) any person who is engaged in the development; or
- (c) any other person appearing to have an interest in the land.

(4) A stop notice—

- (a) shall state—
 - (i) the name of the person to whom it is directed;
 - (ii) the basis on which the stop order is made;
 - (iii) the address on which the development is taking place or has taken place;
 - (iv) the nature of the development;
 - (v) that the notice takes effect from the time it is served; and
 - (vi) the period for which the notice is effective;
- (b) shall be for a period not exceeding ten days and may be extended for such further periods as the local planning authority, the Government Town Planner or the Authority may determine.

(5) Where a stop notice is served on a person referred to in subsection (3), a copy thereof shall be posted in a conspicuous place—

- (a) on the premises where the relevant development is taking place or has taken place; and
- (b) in a court house, police station or other public place in the parish in which the development is taking place or has taken place.

(6) Where a person suffers any loss resulting from the service of a stop notice, compensation shall only be payable where in any action brought by him against a local planning authority, the Government Town Planner or the Authority, as the case may be, he expressly alleges that the

service of the notice was done without reasonable or probable cause and at the trial of such action he proves such allegation.

(7) Any person who fails to comply with a stop notice shall be liable on summary conviction before a Resident Magistrate to a fine of not less than twenty-five thousand dollars nor more than one million dollars or in default of payment to a term of imprisonment not exceeding six months.

Enforcement of planning control.
16/1993
S. 6 (a) (i).

23.—(1) If it appears to the local planning authority, the Government Town Planner or the Authority that any development of land has been carried out after the coming into operation of a development order relating to such land without the grant of permission required in that behalf under Part III, or that any conditions subject to which such permission was granted in respect of any development have not been complied with, then subject to any directions given by the Minister and to subsection (1A), the local planning authority, the Government Town Planner or the Authority may within twelve years of such development being carried out, if they consider it expedient so to do having regard to the provisions of the development order and to any other material considerations, serve on the owner and occupier of the land and any person who carries out or takes steps to carry out any development of such land and any other person concerned in the preparation of the development plans or the management of the development or operations on such land a notice under this section (hereinafter referred to as an “enforcement notice”).

16/1993
S. 6 (a) (i).
16/1993
S. 6 (a) (ii).
3/1999
S. 6 (a)(ii).

16/1993
S. 6 (a)(iii).

3/1999
S. 6 (a) (iii).

3/1999
S. 6 (b).

(1A) Where a stop notice is served under section 22A, a local planning authority, the Government Town Planner or the authority, as the case may be, shall serve an enforcement notice within fourteen days of the service of the stop notice.

(2) An enforcement notice shall specify the development which is alleged to have been carried out without the grant of permission as aforesaid or, as the case may be, the matters in respect of which it is alleged that any such conditions as aforesaid have not been complied with, and may require such steps as may be specified in the notice to be taken within such period as may be so specified for restoring the land to its condition before the development took place, or for securing compliance with the conditions, as the case may be, and in particular any such notice may, for the purpose aforesaid, require the demolition or alterations of any buildings or works, the discontinuance of any use of land, or the carrying out on land of any building or other operations and shall state that any person upon whom an enforcement notice is served is prohibited from continuing or carrying out any development or operations or using the land in respect of which the notice is served.

3/1999
S. 6 (e).

16/1993
S. 6 (b).

(2A) Where an enforcement notice is served under subsection (1), the local planning authority, the Government Town Planner or the Authority, as the case may be, shall—

3/1999
S. 6 (d).

- (a) cause a copy of the enforcement notice to be posted in a conspicuous place on the development or on the land where the development is being carried on;
- (b) cause a notice in accordance with subsection (2B) to be displayed in a conspicuous place in a court house, police station, post office, postal agency or other public place in the parish in which the development is taking place or has taken place.

(2B) The notice referred to in subsection (2A) (b) shall contain information—

3/1999
S. 6 (d).

- (a) as to the place where an enforcement notice may be inspected and a copy obtained;
- (b) that any interested person may make representations in respect of the enforcement notice to the

local planning authority, the Government Town Planner or the Authority.

(2C) The local planning authority, the Government Town Planner or the Authority, as the case may be, shall from time to time cause a list of enforcement notices to be published in a daily newspaper circulated in Jamaica.

3/1999
S. 6 (d).

(2D) In subsection (2B) (b) "interested persons" means the owner or occupier of any premises abutting, adjoining or adjacent to the premises in respect of which the enforcement notice is served.

16/1993
S. 6 (d).

(3) Subject to section 23A, an enforcement notice shall take effect—

3/1999
S. 6 (c).

(a) in the case of the discontinuance of material change of use of land, at the expiration of twenty-eight days after the service thereof;

(b) in any other case, at the expiration of three days after the service thereof:

3/1999
S. 6 (d).

Provided that where an appeal is lodged pursuant to section 23A, any development to which the enforcement notice relates shall cease.

Appeal to
Minister.
16/1993
S. 7.
3/1999
S. 7 (a).
3/1999
S. 7(b)(i)(ii).

23A.—(1) If any person on whom an enforcement notice is served pursuant to section 23 is aggrieved by the notice, he may within fourteen days of the service of the notice appeal against the notice to the Minister, and the Minister may, subject to section 28A, hear the appeal.

3/1999
S. 7 (c).

(2) Every person who lodges an appeal pursuant to subsection (1) shall, at the time of lodging the appeal, pay the prescribed fee.

3/1999
S. 7 (c).

(3) The Minister shall, within ninety days of the hearing of an appeal, make a determination in accordance with the provisions of subsection (4).

3/1999
S. 7 (d) (i).

(4) On hearing an appeal or upon receipt of the findings of the person or persons under section 28A (1) (b), the Minister may—

- (a) quash the notice if satisfied that permission was granted under this Act for the development to which the notice relates, or that no such permission was required in respect thereof, or, as the case may be, that the conditions subject to which such permission was granted have been complied with; or
- (b) vary the notice if not so satisfied but satisfied that the requirements of the notice exceed what is necessary for restoring the land to its condition before the development took place, or for securing compliance with the conditions, as the case may be; or
- (c) in any other case, dismiss the appeal:

Provided that where the enforcement notice is varied or the appeal is dismissed, the Minister may, if he thinks fit, direct that the enforcement notice shall not take effect until such date (not being later than twenty-eight days from the determination of the appeal) as the Minister may specify.

3/1999
S. 7 (d) (ii).

3/1999
S. 7 (d)(ii).

(5) A person who is aggrieved by a decision of the Minister may appeal against that decision to the Court of Appeal.

3/1999
S. 7 (e).

23B.—(1) Where—

- (a) a person on whom an enforcement notice is served under section 23 fails to comply with the provisions of that notice within the period specified therein; or
- (b) a local planning authority, the Government Town Planner or the Authority, as the case may be, considers it necessary or expedient for any perceived breach of planning control to be restrained,

Application
for
injunction.
3/1999
S. 8.

the local planning authority, the Government Town Planner or the Authority, as the case may be, may apply to the court for an injunction, whether or not they have exercised or are proposing to exercise any of their other powers under this Act.

(2) On an application under subsection (1), the court may grant such injunction as the court thinks appropriate for the purpose of restraining the breach.

(3) Rules of Court may provide for such injunction to be issued against a person whose identity is unknown.

Recovery of
expenses
incurred
by local
planning
authorities.

24.—(1) If within the period specified in an enforcement notice, or within such extended period as the local planning authority may allow, any steps required by the notice to be taken (other than the discontinuance of any use of land) have not been taken, the local planning authority may enter on the land and take those steps, and may recover as a simple contract debt in the Resident Magistrate's Court of the parish in which the land is situated, from the person who is then the owner of the land, any expenses reasonably incurred by them in that behalf; and if that person, having been entitled to appeal to the Minister under section 23A, failed to make such an appeal, he shall not be entitled in proceedings under this subsection to dispute the validity of the action taken by the local planning authority upon any ground which could have been raised by such appeal.

3/1999
S. 9.

(2) Any expenses incurred by the owner or occupier of any land for the purpose of complying with an enforcement notice served under subsection (1) of section 23 in respect of any development, and any sums paid by the owner of any land under subsection (1) in respect of the expenses of the local planning authority in taking steps

required to be taken by such notice, shall be deemed to be incurred or paid for the use and at the request of the person by whom the development was carried out.

(3) Where, by virtue of an enforcement notice, any use of land is required to be discontinued, or any conditions are required to be complied with in respect of any use of land or in respect of the carrying out of any operations thereon, then if any person, without the grant of permission in that behalf under Part III, uses the land or causes or permits the land to be used, or carries out or causes or permits to be carried out those operations, in contravention of the notice, he shall be guilty of an offence and liable on summary conviction before a Resident Magistrate to a fine not exceeding twenty-five thousand dollars, or in default of payment to imprisonment with hard labour for a term not exceeding twelve months, and if the use is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction before a Resident Magistrate to a fine not exceeding five thousand dollars for every day on which the use is so continued, or in default of payment the Resident Magistrate shall make an order for the interest in the land to be forfeited to the Crown, and if the use is continued after the second conviction, he shall be guilty of a further offence and on summary conviction before a Resident Magistrate the interest in the land shall be forfeited to the Crown.

16/1993
S. 8 (b) (i).

16/1993
S. 8 (b) (ii).

16/1993
S. 8 (b) (iii).
16/1993
S. 8 (b) (iv).

25.—(1) If it appears to a local authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order (in this Act referred to as a “tree preservation order”) with respect to such trees,

**Orders for
preservation
of trees and
woodlands.**

groups of trees or woodlands as may be specified in the order; and, in particular, provision may be made by any such order—

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

(2) A tree preservation order shall not take effect until it is confirmed by the Minister, and the Minister may

confirm any such order either without modification or subject to such modifications as he considers expedient.

(3) The Minister may make regulations under this Act with respect to the form of tree preservation orders, and the procedure to be followed in connection with the submission and confirmation of such orders; and such regulations may in particular but without prejudice to the generality of the foregoing make provision for securing—

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

Provided that where it appears to the Minister that any such order should take effect immediately he may confirm the order provisionally without complying with the requirements of any such regulations with respect to the consideration of objections and representations, but any such order so confirmed shall cease to have effect upon the expiration of two months from the date on which it is so confirmed, unless within that period it has again been confirmed by the Minister with or without modifications, after compliance with those regulations.

(4) Without prejudice to any other exemption for which provision may be made by a tree preservation order, no such order shall apply to the cutting down, topping or lopping of trees which are dying or dead or have become

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

(5) If any person contravenes the provisions of a tree preservation order, he shall be guilty of an offence and liable on summary conviction before a Resident Magistrate to a fine not exceeding one hundred dollars or in default of payment to imprisonment with hard labour for a term not exceeding three months, and if in the case of a continuing offence the contravention is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction before a Resident Magistrate to an additional fine not exceeding four dollars for every day on which the contravention is so continued.

Control of
advertisements.

26.—(1) Subject to the provisions of this section the Minister shall make regulations under this Act for restricting or regulating the display of advertisements in any area to which a development order applies, so far as appears to him to be expedient in the interests of amenity or public safety, and without prejudice to the generality of the foregoing provision, any such regulations may provide—

- (a) for regulating the dimensions, appearance and position of advertisements which may be displayed within such area, the sites on which such advertisements may be displayed, and the manner in which they are to be affixed to land;
- (b) for requiring the consent of the local planning authority to be obtained for the display within such area of advertisements, or advertisements of any class specified in the regulations;

- (c) for applying, in relation to any such consent and to the applications therefor, any of the provisions of Part III relating to permission to develop land and to application for such permission subject to such adaptations and modifications as may be specified in the regulations;
- (d) for enabling the local planning authority to require the removal of any advertisement which is being displayed in contravention of the regulations, or the discontinuance of the use for the display of advertisements of any site which is being used for that purpose in contravention of the regulations, and for that purpose of applying any of the provisions of this Part with respect to enforcement notices, subject to such adaptations and modifications as may be specified in the regulations;
- (e) for the constitution, for the purposes of the regulations, of such advisory committees as may be prescribed by the regulations and for determining the manner in which the expenses of any such committee are to be defrayed.

(2) Without prejudice to the generality of the powers conferred by paragraph (c) of subsection (1), regulations made for the purpose of this section may provide that any appeal from the decision of the local planning authority on an application for their consent under the regulations shall lie to an independent tribunal constituted in accordance with the regulations, instead of to the Minister.

(3) Subject as hereinafter provided regulations made under this section may be made so as to apply to advertisements which are being displayed on the date on which the regulations come into force, or to the use for the display of advertisements of any site which was being used for that purpose on that date :

Provided that any such regulations shall provide for exempting therefrom—

(a) the continued display of any such advertisement as aforesaid; and

(b) the continued use for the display of advertisements of any such site as aforesaid,

during such period as may be prescribed in that behalf by the regulations and different periods may be so prescribed for the purposes of different provisions of the regulations.

(4) Regulations made under this section may direct that any enactment affecting the control of advertisements passed before the commencement of this Act or any regulations made (whether before or after the commencement of this Act) under any such enactment shall not apply to the display of advertisements within the area to which the development order relates or shall apply thereto subject to such modifications as may be specified in the regulations.

Claims
for com-
pensation.

27.—(1) Where the display of advertisements in accordance with regulations made under section 26 involves the development of land within the meaning of this Act, planning permission for that development shall be deemed to be granted by virtue of this section, and no application shall be necessary in that behalf under any other provision of this Act.

(2) Where for the purpose of complying with any such regulations as aforesaid works are carried out by any person for the removal of advertisements being displayed on the date on which the regulations come into force or the discontinuance of the use for the display of advertisements of any site used for that purpose on that date, that person shall be entitled on a claim made to the Authority within the time and in the manner prescribed by regulations under

this Act, to recover from the Authority compensation in respect of any expenses reasonably incurred by him in that behalf :

Provided that no compensation shall be payable under this subsection with respect to the removal of any advertisement which was not being displayed in an area on the date on which the development order applicable to that area came into force.

(3) Without prejudice to any provisions included in regulations made under paragraph (d) of subsection (1) of section 26, if any person displays an advertisement in contravention of the provisions of the regulations, he shall be guilty of an offence and liable on summary conviction before a Resident Magistrate to a fine of such amount not exceeding ten thousand dollars or in default of payment to imprisonment with hard labour for such term not exceeding twelve months, as may be prescribed by regulations, and in the case of a continuing offence one thousand dollars for each day during which the offence continues after conviction.

16/1993
S. 9.

16/1993
S. 9.
16/1993
S. 9.

(4) For the purposes of subsection (3), and without prejudice to the generality thereof, a person shall be deemed to display an advertisement if—

- (a) the advertisement is displayed on land of which he is the owner or occupier; or
- (b) the advertisement gives publicity to his goods, trade, business or other concerns :

Provided that a person shall not be guilty of an offence under the said subsection by reason only that an advertisement is displayed on land of which he is owner or occupier, or that his goods, trade, business or other concerns are given publicity by the advertisement, if he proves that it was displayed without his knowledge or consent.

Power to
require
proper
mainten-
ance of
waste
land, etc.

28.—(1) If it appears to a local planning authority that the amenity of any part of the area of that authority to which a development order applies, is seriously injured by the condition of any garden, vacant site or other open land in such area, then, subject to any directions given by the Minister the authority may serve on the owner and occupier of the land, in the manner prescribed by regulations under this Act, a notice requiring such steps for abating the injury as may be specified in the notice, to be taken within such period as may be so specified.

(2) In relation to any notice served under this section, the provisions of subsections (3) to (5) of section 23 and section 24 shall, subject to such exceptions and modifications as may be prescribed by regulations under this Act, apply as those provisions apply in relation to an enforcement notice served under the said section 23.

PART VI

Miscellaneous

Minister
may appoint
person or
persons with
respect to
appeals.
3/1999
S. 10.

28A.—(1) The Minister may, if he thinks fit, appoint a person or persons—

- (a) to hear, receive and examine the evidence in an appeal; and
- (b) to submit to him, for his determination, a written report of the findings and recommendations, within twenty-one days of the hearing of such evidence.

(2) A person or persons appointed under subsection (1) shall hear the evidence within twenty-one days of the date on which such appointment is made.

(3) Where such person or persons fail to comply with subsection (2), the Minister shall hear and determine the appeal in question.

(4) There shall be paid to a person or persons appointed under subsection (1) such remuneration by way of honorarium as the Minister shall determine.

29.—(1) Any person duly authorized in writing—

Powers of
entry.
16/1993
S. 10 (a).

(a) by a local planning authority, the Government Town Planner or the Authority may, at any reasonable time, enter upon any land for the purposes of—

(i) observing any contravention of a development order or conditions attached thereto;
or

(ii) serving any notice under section 23 (1) or, carrying into effect any steps specified in such notice pursuant to that section or section 24 (1), or inspecting any works being carried out under an enforcement notice;
or

(b) by the Minister or a local authority or a local planning authority, may, at any reasonable time, enter upon any land for the purpose of inspecting or surveying in connection with—

(i) the preparation, confirmation or amendment of a provisional development order or a confirmed development order, as the case may be;

(ii) any application under Part III or under any order or regulations made under this Act for any permission, consent or determination to be given or effected thereunder;

(iii) any proposal by a local authority, the Government Town Planner or the Authority or a local planning authority or by the Minister to serve or make any notice or order under this Act, except a notice under section 23,

and any person being an officer of the Board or authorized in writing in that behalf by the Board, or a person duly authorized in writing by the Authority may, at any reason-

able time, enter upon any lands for the purpose of surveying it or estimating its value in connection with any claim for compensation payable by the Authority.

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

16/1993
S. 10 (b).
16/1993
S. 10 (b).

(3) Any person who wilfully obstructs a person acting in the exercise of his powers under this section shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding ten thousand dollars or in default of payment to imprisonment with hard labour for a term not exceeding twelve months.

16/1993
S. 10 (c).

(4) If any person who, in compliance with the provisions of this section, is admitted into a factory, workshop or workplace discloses to any person any information obtained by him therein as to any manufacturing process or trade secret he shall, unless the disclosure is made in the course of performing his duty in connection with the survey or estimate for which he was authorized to enter the premises, be liable on summary conviction before a Resident Magistrate to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding twelve months.

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

6/1985
S. 4 (a) (b).

(6) Any expenses incurred by the Minister, the Authority or the Board under subsection (5) shall be paid from the Consolidated Fund.

(7) Any power conferred by this section to survey land shall be construed as including power to search and bore for the purpose of ascertaining the nature of the sub-soil or the presence of minerals therein :

Provided that a person shall not carry out any works authorized by this subsection unless notice of his intention so to do has been included in the notice required by subsection (2) and if the land in question is held by any statutory undertakers and those undertakers object to the proposed works on the ground that the carrying out thereof would be seriously detrimental to the carrying out of their undertaking, the works shall not be carried out except with the authority of the Minister.

30. Any notice, order or other document required or authorized to be served under this Act may be served either—

Service of notices, etc.

- (a) by delivering it to the person on whom it is to be served; or
- (b) by leaving it at the usual or last known place of abode of that person; or
- (c) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode where such place of abode is within a postal delivery district; or
- (d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office or sending it in a prepaid letter addressed to the secretary or clerk of the company or body at that office; or
- (e) if it is not practicable after reasonable enquiry to ascertain the name or address of any person on whom it should be served, by addressing it to him by the description of “owner” or “lessee” or “occupier” (as the case may be) of the premises

(naming them) to which it relates, and by delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

Regulations. 31.—(1) The Minister may make regulations under this Act—

6/1985
S. 4(a) (b).

(a) for prescribing the form of any notice, order or other document authorized or required by this Act to be served, made or issued by the Board, local planning authority or local authority;

(b) for regulating generally the procedure to be followed in connection with the preparation and confirmation of development orders and in particular, but without prejudice to the generality of the foregoing, for providing for the several matters and things mentioned in the Fifth Schedule;

Fifth
Schedule.
16/1993
S. 11.

(c) for prescribing the manner in which materials which are used on a construction site are to be stored;

3/1999
S. 11 (b).

(d) for any purpose for which regulations are authorized or required to be made under this Act, and in particular for prescribing anything which by this Act is required or authorized to be prescribed by regulations.

42/1969
3rd Sch.

(2) Regulations made by the Minister under this Act shall be subject to negative resolution.

(3) The imposition of a fine not exceeding one hundred dollars may be provided for by such regulations for any contravention or failure to comply with the provisions thereof.

Offences. 32. Any person who—

(a) being required under the provisions of this Act to

[The inclusion of this page is authorized by L.N. 3/2001]

make and deliver a statement, wilfully or recklessly makes any false statement, or fails or refuses to make or deliver such statement; or

- (b) uses any building or land in any manner prohibited under the provisions of this Act,

shall be guilty of an offence against this Act and except as otherwise specifically provided in this Act shall be liable on summary conviction thereof before a Resident Magistrate to a fine not exceeding one hundred dollars or in default of payment to imprisonment with hard labour for a term not exceeding three months, and in the case of a continuing offence to a further fine not exceeding ten dollars for every day during which the offence continues or in default of payment to a further term of imprisonment with hard labour not exceeding three months.

33.—(1) The validity of any contract of sale relating to any land to which a development order applies, entered into between the developer of such land and any other person, shall not be affected by reason only of failure on the part of the developer, prior to the making of such contract, to comply with any requirements of this Act or any development order made thereunder relating to the development of such land, but such contract shall not be executed by the transfer or conveyance of such land unless and until the aforementioned requirements have been complied with.

Validity
and
enforce-
ment of
certain
contracts.
4/1976
S. 2.

(2) Where a contract referred to in subsection (1) cannot be executed because of the failure on the part of the developer of the land, prior to the making of such contract, to comply with any requirements of this Act or any development order made thereunder, the other party to the contract or any person succeeding to the rights of that other party under the contract may, after the expiration of such time as may be reasonable in the circumstances of each case, withdraw therefrom and recover from the developer of the land any moneys paid to him under the

contract, together with interest thereon at the rate of seven *per centum* per annum from the date on which such moneys were paid.

(3) In this section the expression “developer”, in relation to any land, means any person who carries out or takes steps to carry out development of such land.

Establish-
ment of
Compensa-
tion Assess-
ment Board.
6/1985
S. 3.
Sixth Sche-
dule.
16/1993
S. 12.

34.—(1) The Minister shall establish, for the purposes of this Act, a Compensation Assessment Board which shall determine any claim for compensation made under Part IV.

(2) The provisions of the Sixth Schedule shall have effect with respect to the constitution and procedure of the Board.

FIRST SCHEDULE

(Section 4)

Constitution and Procedure of the Advisory Planning Committee

1. The Committee shall consist of not less than three members who shall be appointed by the Minister.
2. The Minister shall appoint a member of the Committee to be chairman of the Committee.
3. A member of the Committee shall, subject to the provisions of this Schedule, hold office for a period not exceeding two years but such member shall be eligible for reappointment.
4. The Minister may appoint any person to act temporarily in the place of the chairman or a member of the Committee in the case of the absence or inability to act of the chairman or of such member, as the case may be.
- 5.—(1) Any member of the Committee, other than the chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of the receipt by the Minister of such instrument such member shall cease to be a member of the Committee.

(2) The chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument by the Minister.
6. The Minister may at any time revoke the appointment of any member, including the chairman.
7. The names of all members of the Committee as first constituted and every change in the membership thereof shall be published in the *Gazette*.
- 8.—(1) The Committee shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Committee may determine.

(2) The chairman shall preside at meetings of the Committee, and if the chairman is absent from a meeting the other members present at the meeting shall elect one of their number to preside thereat.

(3) The quorum of the Committee shall consist of a majority of the members.

(4) The decisions of the Committee shall be by a majority of votes and, in addition to an original vote, in any case in which the voting is equal the chairman shall have a casting vote.

(5) Minutes in proper form of each meeting shall be kept by the secretary and shall be confirmed by the chairman as soon as practicable thereafter at a subsequent meeting.

(6) The acts of the Committee shall be authenticated by the signature of the chairman or the secretary of the Committee.

(7) Subject to the provisions of this paragraph the Committee shall have power to regulate its own proceedings.

9. The validity of any proceedings of the Committee shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

10. The expenses of the Committee shall be defrayed out of sums provided for the purpose in the annual estimates of revenue and expenditure of the Island as approved by the House of Representatives.

11. In this Schedule "chairman" includes a person appointed or elected, as the case may be, to act temporarily in place of the chairman.

SECOND SCHEDULE

(Section 10)

Matters to be dealt with by development orders

PART I

Roads

1. Reservation of land for roads and establishment of public rights of way.

2. Closing or diversion of existing roads and public and private rights of way.

3. Construction of new roads and alteration of existing roads.

4. The line, width, level, construction, access to and egress from, and the general dimensions and character of roads, whether new or existing.

5. Providing for and generally regulating the construction or execution of works incidental to the making or improvement of any road, including the erection of bridges, culverts, gullies, fencing, barriers, shelters, the provision of artificial lighting, and seats and the planting or protecting of grass, trees, and shrubs on or adjoining such road.

PART II

Buildings and other Structures

1. Regulating and controlling, either generally or in particular areas, all or any of the following matters, that is to say—

- (a) the size and height of buildings;
- (b) building lines, coverage and the space about buildings;
- (c) the objects which may be affixed to buildings;

- (d) the purposes for and the manner in which buildings may be used or occupied including in the case of dwelling-houses, the letting thereof in separate tenements;
 - (e) the prohibition of building operations on any land, or regulating such operations.
2. Regulating and controlling the design, colour and materials of buildings and fences.
 3. Reserving or allocating any particular land, or all land in any particular area, for buildings of a specified class or classes, or prohibiting or restricting either permanently or temporarily, the making of any building or any particular class or classes of buildings on any specified land.
 4. Limiting the number of buildings or the number of buildings of a specified class which may be constructed, erected or made, on, in or under any area.

PART III

Community Planning

1. Providing for the control of land by zoning for specific uses.
2. (a) Regulating the layout of housing areas including density, spacing, grouping and orientation of houses in relation to roads, open spaces and other buildings.
(b) Determining the provision and siting of community facilities including shops, schools, churches, meeting halls, play centres and recreation grounds, in relation to the number and siting of houses.

PART IV

Amenities

1. Reservation of lands as open spaces whether public or private.
2. Reservation of land for burial grounds and crematoria.
3. Reservation of lands—
 - (a) for communal parks;
 - (b) for game and bird sanctuaries;
 - (c) for the protection of marine life.
4. Preservation of buildings, caves, sites and objects of artistic, architectural, archaeological or historical interest.
5. Preservation or protection of forests, woods, trees, shrubs, plants and flowers.
6. Prohibiting, restricting or controlling, either generally or in particular places, the exhibition, whether on the ground, on any build-

ing or any temporary erection, whether on land or in water, or in the air, of all or any particular forms of advertisement or other public notices.

7. Preventing, remedying or removing injury to amenities arising from the ruinous or neglected condition of any building or fence, or by the objectionable or neglected condition of any land attached to a building or fence or abutting on a road or situated in a residential area.

8. Prohibiting, regulating and controlling the deposit or disposal of waste materials and refuse, the disposal of sewage and the pollution of rivers, lakes, ponds, gullies and the seashore.

PART V

Public Services

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

PART VI

Transport and Communications

1. Facilitating the establishment, extension or improvement of systems of transport whether by land, water or air.

2. Allocating sites for use in relation to transport, and the reservation of land for that purpose.

3. Providing for the establishment, extension or improvement of telegraphic or telephonic communication, the allocating of sites for use in relation to such communication, and the reservation of land for that purpose.

PART VII

Miscellaneous

1. Providing for and regulating the making of agreements for the purpose of the development order by the Authority with a local authority or with owners and other persons, and by a local authority with such persons and by such persons with one another.

2. Subdivision of land and in particular, but without prejudice to the generality of the foregoing—

- (a) regulating the type of development to be carried out and the size and form of plots;
- (b) requiring the reservation of land for any of the public services referred to in Part V or for any other purposes referred to in this Schedule for which land may be reserved;

- (c) prescribing the character and type of public services or other works which shall be undertaken and completed by the applicant for subdivision as a condition of the grant of authority to subdivide;
 - (d) co-ordinating subdivision of contiguous properties in order to give effect to the scheme of development of such properties.
3. Making any provisions necessary for—
- (a) adjusting and altering the boundaries and areas of any towns;
 - (b) enabling the establishment of satellite towns and new towns;
 - (c) effecting such exchanges of land or cancellation of existing subdivision plans as may be necessary or convenient for the purposes aforesaid.

THIRD SCHEDULE

(Section 17)

Provisions relating to compensation under Part IV

For the purpose of assessing any compensation payable under Part IV of this Act being compensation in respect of the compulsory acquisition of any land or in respect of the depreciation in value of any interest the Board shall, notwithstanding anything contained in any law in relation to compensation for the compulsory acquisition of land, act in accordance with the following rules—

- (1) No allowance shall be made on account of the acquisition being compulsory.
- (2) (a) The value of the land shall, subject as hereinafter provided, be taken to be the amount which the land if sold in open market by a willing seller on the specified date might be expected to realize: Provided always that the Board shall be entitled to consider all returns and assessments of capital value for taxation made or acquiesced in by the claimant.
(b) For the purposes of this rule “the specified date” shall be the date named in the development order as the specified date.
- (3) The special suitability or adaptability of the land for any purpose shall not be taken into account if that purpose is a purpose to which it could be applied only in pursuance of statutory powers, or for which there is no market apart from the special needs of a particular purchaser or the requirements of any government department or any local or public authority:

Provided that any *bona fide* offer for the purchase of the land made before the commencement of this Act which may be brought to the notice of the Board shall be taken into consideration.

6/1985
S. 4 (a) (b).6/1985
S. 4 (a) (b).6/1985
S. 4 (a).

- 6/1985
S. 4 (a).
- (4) Where the value of the land is increased by reason of the use thereof or of any premises thereon in a manner which could be restrained by any court, or is contrary to law, or is detrimental to the health of the inmates of the premises or to the public health, the amount of that increase shall not be taken into account.
- (5) Where land is, and but for the compulsory acquisition would continue to be, devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, the compensation may, if the Board are satisfied that reinstatement in some other place is *bona fide* intended, be assessed on the basis of the reasonable cost of equivalent reinstatement.
- (6) The provisions of rule (2) shall not affect the assessment of compensation for disturbance or any other matter not directly based on the value of the land.
- (7) Where any interest in land is subject to a mortgage—
- (a) any compensation as aforesaid which is payable in respect of the depreciation in the value of that interest shall be assessed as if the interest were not subject to the mortgage;
 - (b) a claim for any such compensation may be made by any mortgagee of the interest, but without prejudice to the making of a claim by the person entitled to the interest;
 - (c) a mortgagee shall not be entitled to claim any such compensation in respect of his interest as such;
 - (d) the compensation payable in respect of the interest subject to the mortgage shall be paid by the Authority to the mortgagee or, where there is more than one mortgagee to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.
- 6/1985
S. 4 (a).
- (8) For the purposes of this Schedule the Board shall be entitled to be furnished with such returns and assessments as they may require.

FOURTH SCHEDULE

[Repealed by Act 3 of 1999.]

16/1993
S. 13 (a).

FIFTH SCHEDULE

(Section 31)

Matters in relation to which Regulations may be made

1. The documents (including maps, plans and statements) which are to be prepared by the Authority and the time at or within which such documents are to be deposited.
2. The inspection, by persons interested, of documents (including maps, plans and statements) prepared in pursuance of the regulations.

[The inclusion of this page is authorized by L.N. 3/2001]

3. The manner in which and the times or within which objections to or representations in respect of a provisional development order may be made.

4. For securing co-operation by the Authority with owners of property and other persons likely to be affected by a development order.

5. For enabling the Authority to obtain (without charge) information which they require for the purposes of or in connection with the preparation or making or carrying into effect of development orders by inspection of documents which are not in their custody.

6. For enabling the Authority to deal, subject to the provisions of this Act, with lands and buildings, the ownership of which is doubtful or uncertain.

SIXTH SCHEDULE

(Section 34) 16/1993
S. 13 (b).*Constitution and Procedure of the Compensation Assessment Board*

1. The Board shall consist of not less than five nor more than nine members who shall be appointed by the Minister. **Appointment of members.**
2. If the chairman or any other member of the Board is absent or unable to act, the Minister may appoint another person to act temporarily as chairman or as such other member. **Temporary appointments.**
3. The Minister shall appoint one of the members of the Board to be the chairman thereof. **Chairman.**
4. (1) The appointment of every member of the Board shall be evidenced by an instrument in writing, and such instrument shall specify the period of office of the member which shall not exceed three years. **Tenure of office.**
- (2) Every member of the Board shall be eligible for reappointment.
- (3) The Minister may at any time revoke the appointment of the chairman or any other member of the Board.
- 5.—(1) Any member of the Board other than the chairman may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of the receipt by the Minister of such instrument, such member shall cease to be a member of the Board. **Resignation.**
- (2) The chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument by the Minister.
6. The names of the members of the Board as first constituted and every change in membership thereof shall be published in the *Gazette*. **Publication of membership.**

- Authentication of documents. 7. All documents made by, and all decisions of, the Board may be signified under the hand of the chairman or the secretary or any member or officer of the Board authorized to act in that behalf.
- Procedure. 8.—(1) The Board shall meet at such times as may be necessary or expedient for the transaction of business and such meetings shall be held at such places and times and on such days as the Board may determine.
- (2) The chairman shall preside at meetings of the Board, and if the chairman is absent from a meeting the members of the Board present shall elect one of their number to preside at the meeting.
- (3) The quorum of the Board shall be the chairman or the person elected under sub-paragraph (2) and two other members thereof.
- (4) The decisions of the Board shall be by a majority of votes and, in addition to an original vote, in any case in which the voting is equal, the chairman or the person elected to preside, as the case may be, shall have a casting vote.
- (5) The validity of any proceedings of the Board shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.
- (6) If in any case the Board finds that a claim for compensation is not valid the Board shall, at the request of any person having an interest in the claim, give reasons for its findings.
- (7) Subject to the provisions of this Schedule the Board shall have power to regulate its own proceedings.
- Proceedings before Board. 9.—(1) The secretary shall keep a record of all proceedings brought before the Board.
- (2) The Board may, with the approval of the Minister, make rules prescribing the forms to be used in proceedings before the Board and generally for regulating procedures and practices related to the conduct of its proceedings.
- Power to summon witnesses. 10.—(1) The Board shall have power to summon any person to attend before the Board and to give evidence or to produce any paper, book, record or document in the possession or under the control of such person.
- (2) A summons under this paragraph shall be in the form prescribed by rules.
- (3) A summons under this paragraph may be served either personally or by registered post.
- (4) The Board shall have power to administer oaths to or take the affirmation of any witness appearing before them.

- 11.—(1) Any person summoned to attend and give evidence or to produce any paper, book, record or document before the Board—
- Duty and privileges of witnesses.**
- (a) shall be bound to obey the summons served upon him;
 - (b) shall be entitled, in respect of such evidence or the disclosure of any communication or the production of any such paper, book, record or document, to the same right or privilege as he would have before a court;
 - (c) shall be entitled to be paid, from public funds, his expenses, including travelling expenses, at the rates prescribed by the Witnesses Expenses Act for witnesses who are entitled to have their expenses paid from public funds:

Provided that the Board may disallow the whole or any part of such expenses in any case, if it thinks fit.

- (2) Any person who—
- (a) without sufficient cause, fails or refuses to attend before the Board in obedience to a summons under this Act, or fails or refuses to produce any paper, book, record or document which he was required by such summons to produce; or
 - (b) being a witness, leaves the Board without the permission of the Board; or
 - (c) being a witness, refuses, without sufficient cause, to answer any question put to him by or with the permission of the Board; or
 - (d) wilfully obstructs or interrupts the proceedings of the Board,
- shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding two hundred dollars.

12. There shall be paid to the chairman and other members of the Board such remuneration (whether by way of honorarium, salary or fees) and such allowances as the Minister may determine.

Remuneration of members.

13. The Minister shall make such arrangements in relation to the provision and remuneration of officers and servants of the Board as may from time to time be necessary.

Officers and servants.

14. No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Board in respect of an act done *bona fide* in pursuance or execution or intended execution of this Act.

Protection of members.

15. Any member of the Board who has any interest, directly or indirectly, in any claim brought before the Board—

Disclosure of interest.

- (a) shall disclose the nature of his interest at a meeting of the Board; and

TOWN AND COUNTRY PLANNING

(b) shall not take part in any deliberations or decision of the Board with respect to that claim.

Expenses of Board.

16. The expenses of the Board shall be defrayed out of sums provided for the purpose in the annual estimates of revenue and expenditure of the Island as approved by the House of Representatives.

Office of member not a public office.

17. The office of chairman or member of the Board shall not be a public office for the purpose of Chapter V of the Constitution of Jamaica.