

PHYSICAL PLANNING BILL, 2019

(Bill No. 7 of 2019)

OBJECTS AND REASONS

The Bill seeks to revise and consolidate the law relating to land use planning and sustainable development.

The Bill is divided into eight parts.

Part I provides for preliminary matters such as short title, commencement, interpretation and that the Act will bind the Republic.

Part II is divided into five subparts providing for the establishment of the Planning Authority, the Board of the Authority, administration of the Authority, funds and accounts of the Authority and disclosure of interest, protection and confidentiality.

Part III is divided in two subparts providing for Land Use Plan, and approval, publication and effect of land use plan and development plan.

Part IV is divided into four subparts providing for Control of Development of Land, permission to develop land, development of land adjacent to sea, and preservation orders, measures as to waste land and ruinous and dilapidated building and control of advertisements.

Part V is divided into two subparts providing for Compensation for refusal or grant of permission and compensation for revocation or modification of permission.

Part VI is divided into four subparts providing for Enforcement measures such as stop notice, enforcement notice, notice of immediate enforcement and powers of Authority to take steps required by a notice and appeal thereof.

Part VII provides for offences and penalties.

Part VIII provides for miscellaneous provisions.

Dated this 15th day of May, 2019.

FRANK D. R. ALLY
ATTORNEY-GENERAL

PHYSICAL PLANNING BILL, 2019

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PHYSICAL PLANNING BILL, 2019

(Bill No. 7 of 2019)



A BILL

OF

AN ACT to revise and consolidate the law relating to land use planning and sustainable development.

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

1. This Act may be cited as the Physical Planning Act, 2019 and shall come into operation on such date as the Minister may, by notice published in the *Gazette*, appoint.

Short title and
Commencement

Interpretation

2. In this Act, unless the context otherwise requires —

“Advertisement” means any word, letter, model, sign, placard, banner, board, notice, device or representation, whether illuminated or not, in the nature of and employed wholly or in part for the purpose of advertisement, announcement or direction, and includes any hoarding or similar structure, wall, pole or fence, used or adapted for the display of advertisements, and references to the display of advertisements are construed accordingly;

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” shall be construed accordingly;

“Authority” means the Planning Authority established under section 4(1);

“beacon” has the meaning assigned to it in the Land Survey Act (Cap. 109);

“Board” means the Board of Authority referred to in section 9(1);

“building” includes a structure or an erection or the part of such structure or erection but does not include plant or machinery comprised in a building;

“building operations” includes —

- (a) construction of new buildings;

- (b) rebuilding operations;

- (c) structural alteration of or addition to buildings; and

- (d) any excavations below the ground or any road or other work or activity preliminary or incidental to the erection of buildings;

“Chief Executive Officer” means the Chief Executive Officer appointed under section 13(1);

“committees” means such committees appointed under section 12;

“committee member” means a member of a committee appointed under section 12.

“Deputy Chief Executive Officer” means the Deputy Chief Executive Officer appointed under section 14(1);

“developer” means a person who intends to effect or effects any development;

“development” has the meaning given to it by section 33 and “develop” is construed accordingly;

“development plan” means the development plan prepared under section 27;

“dilapidated building” means a building fallen into a state of disrepair or deterioration or fallen into ruin, through neglect and is aesthetically detrimental to the amenity of an area;

“enforcement notice” means a notice served under section 55;

“engineering operations” includes the formation or laying out of means of access to roads;

“erection” in relation to buildings, includes extension, alteration and re-erection;

“estate” means an aggregation of four or more parcels of land which are, or were prior to any subdivision, part of the same title whether in co-ownership or otherwise, or in the same ownership;

“estate developer” means any person who creates an estate by subdivision or undertakes any development on an existing estate;

“highway authority” means an authority responsible for the maintenance of a road;

“land” includes land covered with water or the seabed and any building or other things attached to the earth or permanently fastened to anything attached to the earth;

“land use plan” means the land use plan for every district, zone and group of islands in Seychelles prepared pursuant to section 22;

“mineral” includes all minerals and substances including oil in or under land of a kind ordinarily worked for removal by underground or by surface working;

“Minister” means the Minister responsible for land use planning and development and the “Ministry” is construed accordingly;

“Member” means a person appointed as member of the Board under section 9(2);

“national land use plan” means the national land use plan prepared pursuant to section 23;

“no development zone” means the land prescribed as such under section 22(2)(c) where no development shall be carried out, and includes the land declared as such under section 32(1);

“notice of immediate enforcement” means a notice served under section 58;

“prescribed” means prescribed by regulations made under this Act;

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

“statutory undertaker” means a person authorised by a written law to carry on a light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbor, pier, lighthouse and includes a telecommunication undertaking, or any undertaking for the supply of electricity, gas, hydraulic power or water, and the “statutory undertaking” is construed accordingly;

“secretary” means the secretary to the Board appointed under section 10(1);

“stop notice” means a notice served under section 54;

“subdivision”, means any sale, partition, lease or dealing in land which has the effect of dividing land under one title whether in co-ownership or otherwise, into two or more parcels of land for

agricultural, residential, commercial or industrial purposes, or a combination thereof; and

“use” in relation to land, does not include the use of land by the carrying out of any building or other operations thereon.

3. This Act shall bind the Republic.

PART II - THE PLANNING AUTHORITY

Sub-Part I - Establishment of Planning Authority

4.(1) There is hereby established an Authority to be known as the Planning Authority.

(2) The Authority shall be a body corporate.

5. The objects of the Authority shall be —

- (a) to promote and ensure orderly and sustainable use and development of land in Seychelles;
- (b) to facilitate inter-agency co-operation in planning and development of land in Seychelles; and
- (c) to safeguard the immediate and long term public interest in the processes and effects of planning and development of land in Seychelles.

6. The functions of the Authority shall be to administer and enforce the provisions of this Act, and in particular to —

- (a) prepare land use plans and development plans for, and manage and control the development of, all lands in Seychelles;

Act to bind Republic

Establishment of Planning Authority

Objects of Authority

Functions of Authority

(b) advise and make recommendations to the Minister on matters relating to land use planning and development with a view to promoting sustainable land use planning and development of all lands to which this Act applies; and

(c) perform such other functions, consistent with the objects of the Authority, as may be prescribed.

7. The Authority shall have all powers necessary for the performance of its functions and exercise of its powers under this Act.

8. The Minister may issue policy directives, in writing, to the Authority as to the performance of its functions and exercise of its powers under the provisions of this Act.

Sub-Part II - Board of Authority

9.(1) There shall be a Board of Authority, responsible to manage the affairs of the Authority, which shall consist of—

- (a) the Chief Executive Officer *ex-officio*;
- (b) a representative of the Ministry responsible for Land Use Planning and Development;
- (c) a representative of the Ministry responsible for Environment
- (d) a representative of the Ministry responsible for Public Health;
- (e) a representative of the Ministry responsible for Land Transport;
- (f) a representative of the Ministry responsible for Industry;

Powers of Authority

Power of Minister to issue policy directives

Board of Authority

- (g) a representative of the Ministry responsible for Investment;
- (h) a representative of the Ministry responsible for Tourism;
- (i) a representative of the Seychelles Chamber of Commerce and Industry; and
- (j) five members having experience and knowledge in matters of land use planning and development.

(2) The Mayor of Victoria shall be co-opted as a member on matters relating to Victoria.

(3) The President shall, by notice published in the *Gazette*, appoint the Members, and a Chairperson of the Board from among the Members.

(4) The Chairperson of the Board and the Members, other than a person referred to in subsection (1) (a) shall hold office for a term of three years and shall be eligible for re-appointment.

(5) The Chairperson of the Board and the Members shall be paid such fees or remuneration as the President may determine.

(6) A Member other than the Chief Executive Officer may resign from his or her office by giving three months' notice in writing to the President transmitted through the Chairperson of the Board, and the resignation shall take effect from the date on which the President receives the notice.

(7) The President may remove the Chairperson of the Board or a Member from office where the Chairperson of the Board or the Member 3 —

- (a) is unable to perform the functions of his or her office;
- (b) has been absent for three consecutive meetings of the Board without leave of the Board;
- (c) has neglected the duties of the Member;
- (d) is guilty of misconduct; or
- (e) fails to disclose his or her interests in accordance with section 19(1) or (2).

(8) Where the Chairperson of the Board or a Member resigns or is removed from office, the President shall appoint a person to hold office for the unexpired term of appointment of the outgoing Chairperson of the Board or Member and cause notice of the new appointment to be published in the *Gazette*.

(9) The Board shall observe such rules of procedure (including quorum) in transaction of business in its meetings as may be prescribed by Regulations.

10.(1) The Board shall appoint, from among the staff of the Authority, a person to be the secretary of the Board.

Secretary

(2) The secretary shall arrange the agenda and meetings of the Board, record the minutes of the meetings and maintain all records relating to the activities conducted by the Board and perform such other functions as may be assigned to him or her by the Board.

(3) The secretary shall be paid such fees or remuneration as the Board may determine.

11.(1) The Board may co-opt any person with sufficient knowledge and experience to advise the Board on matters of technical nature.

Co-opted person

- (2) A person co-opted under subsection (1) —
- (a) shall not vote on any matter before the Board; and
 - (b) may be paid such fees or remuneration as the Board may determine.

Committees

12.(1) The Board may, after consultation with the Minister, appoint such committees as may be necessary for the efficient performance of the functions and exercise of the powers by the Authority.

(2) The members of any committee appointed under subsection (1) shall be paid such fees or remuneration as the Board may determine.

(3) The composition and proceedings of any committee appointed under subsection (1) shall be prescribed by Regulations.

Sub-Part III - Administration of Authority

Chief Executive Officer

13.(1) The President shall, on the recommendation of the Board, appoint a suitable person as Chief Executive Officer of the Board, on such terms and conditions as may be prescribed.

(2) The Board shall, before making recommendation under subsection (1) advertise the post of Chief Executive Officer specifying the qualification for the post.

(3) The Chief Executive Officer shall, subject to the direction and control of the Board, be responsible for —

- (a) the implementation of the decisions of the Board;
- (b) the administration of the day to day affairs of the Authority and its staff;

- (c) authenticating all documents on behalf of the Authority; and
- (d) such other functions as the Board may assign to him or her.

14.(1) The President shall appoint a Deputy Chief Executive Officer on the recommendation of the Board on such terms and conditions as may be prescribed.

Deputy Chief Executive Officer

(2) The Deputy Chief Executive Officer shall —

- (a) discharge the functions of the Chief Executive Officer when the Chief Executive Officer is absent, on leave or delegates the functions to the Deputy Chief Executive Officer; and
- (b) perform such other functions as may be assigned to the Deputy Chief Executive Officer by the Board.

15. The Authority may, on such terms and conditions as it thinks fit —

Employees of Authority

- (a) employ such officers and other members of staff; and
- (b) engage under contract for services, such persons to provide professional, technical and other assistance,

as is necessary for the effective performance of the functions and attainment of the objects of the Authority.

Sub-Part IV - Funds and accounts of Authority

16.(1) The funds of the Authority shall consist of —

Funds of Authority

- (a) moneys appropriated by the National Assembly for the use of the Authority; and
 - (b) moneys received by the Authority from any other source, including donations, gifts or grants for the purpose of the Authority.
- (2) The funds of the Authority shall be applied in —
- (a) the payment or discharge of expenses, debts and other obligations properly incurred in the performance of the functions of the Authority; and
 - (b) the payment of fees and remuneration to the Members, officer and other employees, and members of committees, of the Authority.

Financial year,
accounts and
audit

17.(1) The financial year of the Authority shall be the calendar year.

(2) The Authority shall keep proper accounts and other relevant record of accounts, and prepare in respect of each financial year a statement in such form and manner approved by the Auditor General.

(3) The accounts of the Authority shall be audited in accordance with Article 158 of the Constitution.

Annual report

18.(1) The Authority shall, at the end of each financial year, prepare an annual report as to the activities and operations of the Authority during the year which shall be approved by the Board.

(2) The Authority shall, not later than three months after the end of the financial year to which the report relates, submit the annual report together with a copy of the report by the Auditor General on the statement of accounts or on the accounts of the Authority to the Minister.

(3) The Minister shall, not later than 3 months from the date of receipt, cause a copy of the report under subsection (2) to be submitted to the National Assembly.

(4) The Authority shall, in case of any activities that may have an impact on the Republic, make a special report to the Minister.

Sub-Part V - Disclosure of interest, protection and confidentiality

19.(1) A Member or committee member shall, upon his or her appointment, disclose to the Board in writing, any direct or indirect interest that he or she has in any corporate or unincorporated body or otherwise which may constitute a conflict of interest with the functions of the Member or committee member.

Disclosure
of interest

(2) A Member or committee member who has a direct or indirect interest in a matter being dealt with by the Board or the committee, as the case may be, shall —

- (a) disclose such interest at the meeting at which the matter is being dealt with; and
- (b) not be present at the deliberations or decision making process of the Board or the committee in relation to that matter.

(3) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

(4) A Member or a committee member who knowingly contravenes subsection (1) or (2) shall be liable to removal from office.

20.(1) The Authority, the Chairperson of the Board, a Member, a committee member, the Chief Executive Officer or

Protection of
Members and
other persons

the Deputy Chief Executive Officer, an officer or employee of the Authority shall not be liable in respect of anything done or omitted to be done in good faith in the performance of the functions of the Authority, Member, committee member, Chief Executive Officer or Deputy Chief Executive Officer, officer or employee, as the case may be.

(2) The Chairperson of the Board, Members, committee members, officers and employees of the Authority and the Chief Executive Officer or Deputy Chief Executive Officer shall be deemed to be employed in the public service for the purposes of sections 91 to 96 of the Penal Code.

Confidentiality

21. The Chairperson of the Board, a Member, committee member, the Chief Executive Officer or the Deputy Chief Executive Officer or an officer or employee of the Authority shall not, divulge or disclose any information acquired by reason of the membership of the Board or a committee or holding of office or employment, except —

- (a) in the performance of a function or the discharge of a duty under or in connection with this Act; or
- (b) where disclosure is permitted by law or an order of the Court.

PART III - LAND USE PLAN AND DEVELOPMENT PLAN

Sub-Part I - Preparation and review of land use plan and development plan

22.(1) The Authority shall, as soon as practicable after this Act comes into operation, prepare a land use plan for every district, zone and group of islands in Seychelles.

(2) A land use plan prepared under subsection (1) shall indicate —

- (a) the use, state of development and protection status of land in the district, zone or group of islands;
- (b) the classification of land use in the district, zone or group of islands in accordance with the classification of land use as may be prescribed;
- (c) such land as may be prescribed on which no development may be carried out; and
- (d) such other matters as may be prescribed.

(3) The form and the manner for preparation of a land use plan shall be such as may be prescribed by regulations.

23. The Authority shall, as soon as practicable after the land use plans for all districts, zones and group of islands comes into operation, prepare a national land use plan.

National land use plan

24.(1) The Authority shall, once in every five years after the date on which the land use plan for any district, zone or group of islands come into operation, update the land use plan.

Update of land use plan

(2) For the purposes of subsection (1), the Authority shall assess all developments in the district, zone or group of islands to which the land use plan relates and shall indicate any new developments on the updated land use plan.

(3) Where a land use plan is updated under subsection (1), the classification of land use shall not be changed except on the grounds of —

- (a) national security, public welfare, health and safety;
- (b) natural causes and disasters; and

Land use plans for districts, zones and groups of islands

(c) policy and development strategies of the Government.

(4) Where, as a result of an update of a land use plan under subsection (1), any change is made to the land use plan, the national land use plan shall be updated so as to reflect such change.

25.(1) The Authority shall, once in every ten years after the date on which the national land use plan comes into operation and thereafter once in every ten years or at such period as the Minister may, by notice in the *Gazette* allow, review the land use plan for every district, zone or group of islands and the national land use plan in accordance with the provisions of this Act.

(2) The manner of preparation of land use plan, its approval and publication shall be prescribed by regulations.

(3) The Authority shall give notice in the *Gazette* and in at least one daily newspaper that the land use plan for any district, zone or group of islands or the national land use plan is under review.

26.(1) The Minister may, at any time during the review of a land use plan for any district, zone or group of islands on the advice of the Authority, by order published in the *Gazette*, prohibit all developments in the whole or part of the district, zone or group of islands under review.

(2) An order for prohibition of developments under subsection (1) shall have effect for a period not exceeding six months or such other period as may be prescribed.

27.(1) The Authority may, as soon as practicable after this Act comes into operation, prepare a development plan for the whole or part of Seychelles indicating the manner in which the Authority proposes that land is developed and the stages in which any such development may be carried out.

(2) A development plan shall include such maps and descriptive matter as may be necessary to illustrate the proposal referred to in subsection (1) with such degree of particularity as may be appropriate to different parts of Seychelles, and may in particular define the sites of proposed roads, public and other buildings, works, airfields, reclamation areas, nature reserves, parks, pleasure grounds and other open spaces.

(3) The form and manner for preparation of a development plan shall be such as may be prescribed by regulations.

(4) The Authority shall, once in every ten years after the date on which a development plan comes into operation and thereafter once every five years or at such period as the Minister may, by notice in the *Gazette* allow, review the development plan in the same manner as provided in subsections (1), (2) and (3).

(5) The Authority shall give notice in the *Gazette* and at least in one daily newspaper that the development plan for the whole or part of Seychelles, as the case may be, is under review.

Sub-Part II - Approval, publication and effect of land use plans and development plans

28.(1) A land use plan, national land use plan or development plan and the update or a review of such plans shall be approved by the Minister in such form and manner as may be prescribed.

(2) The approval of the Minister under subsection (1) shall be published in the *Gazette* and in at least one daily newspaper, and the Authority shall make available for inspection by the public, copies of the plans as approved by the Minister.

Review of
land use plan
and national
land use plan

Prohibition on
development
during review
of land use
plan

Development
plan

Approval and
publication of
land use plans,
national land
use plan and
development
plan

Validity of national land use plan and development plan

29.(1) Subject to subsection (2), a land use plan, national land use plan or development plan made for the whole or part of Seychelles, as the case may be, shall be valid for a period of ten years from the date on which the approval of the Minister is published under section 28(2).

(2) The Minister may, by notice published in the *Gazette*, extend the period of validity of a plan referred to in subsection (1) for a further period of two years.

Effect of approval and publication

30.(1) A land use plan, national land use plan, the land use plans for the districts, zones and groups of islands and a development plan for the whole or part of Seychelles, as the case may be, shall from the date of their publication under section 28(2), be binding.

(2) Notwithstanding subsection (1), the draft land use plan for any district, zone and group of islands and the draft development plan for the whole or part of Seychelles, as the case may be, prepared by the Authority under sections 22 and 27, respectively, shall be binding until the final publication of such land use or development plan.

(3) Subject to section 31, the Authority shall not approve an application for permission to carry out a development which is not in accordance with a national land use plan, the land use plan for the district, zone and group of islands to which the application relates or the development plan for the whole or part of Seychelles, as applicable.

Approval of development not in accordance with land use plans in cases of national security, etc.

31.(1) Section 30(3) shall not apply to a development, where the Authority is satisfied that it is —

- (a) in the interest of national security, public welfare, health and safety;
- (b) in accordance with policy and development strategies of the Government; or

- (c) not of a significant scale in relation to the approved development plan under the national land use plan or the land use plan for the district, zone and group of islands.

(2) The Authority shall, prior to approving an application for permission to carry out a development under subsection (1), submit a report to the Minister stating the reasons for allowing the development in the circumstances referred to in subsection (1) (a), (b) or (c), as the case may be.

(3) The Minister may, on receipt of the report under subsection (2), grant approval for such development.

32.(1) Notwithstanding anything in this Part, the Minister may, if he or she is satisfied, at any time on the advice of the Authority, that it is necessary for the national security, public safety or due to the occurrence of a natural disaster so to do, declare any land as no development zone.

Declaration of no development zones in cases of natural disasters

(2) A declaration under subsection (1) shall be published in the *Gazette* and shall come into effect on the date on which it is published.

PART IV CONTROL OF DEVELOPMENT OF LAND

Sub-Part I Development of land

33.(1) In this Part, “development” —

Definition of development

- (a) means —
 - (i) the carrying out of any building, engineering, mining or other operations in, on, under or over any land; or
 - (ii) the making of any material change in the use of any building or other land; and

(b) includes —

- (i) the subdivision of land which is or is intended to be used for residential, commercial, industrial or agricultural purposes;
- (ii) the carrying out of reclamation works;
- (iii) the carrying out of backfilling, stacking or earth cutting of any land;
- (iv) the re-roofing of any building which involves any change of colour, material or design of the roof;
- (v) the carrying out of works for the construction or modification of roads, pathways or bridges;
- (vi) the demolition of any building; and
- (vii) the construction of sea walls or groynes, harbours or jetties and the carrying out of rock armouring works.

(2) Notwithstanding subsection (1), “development” shall not include the following operations or uses of land —

- (a) the carrying out of works for the maintenance, improvement or other alteration of a building if the works —
 - (i) affect only the interior of the building or do not materially affect the external appearance of the building; and
 - (ii) do not result in any structural alterations

to the building or alterations which may endanger health or safety;

- (b) the carrying out of works by a highway authority required for the maintenance or improvement of a road, if the works are carried out on land within the boundaries of the road;
- (c) the carrying out of works by statutory undertakers 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, where an emergency renders such breaking open necessary;
- (d) the use of any building or land within the curtilage of a dwelling house for any purpose incidental to the enjoyment of the dwelling house;
- (e) the use of any land not involving building operations, for the purpose of agriculture and forestry, including afforestation;
- (f) subdivision of land solely for the partition of title between heirs and co-owners where such subdivision of land is not contrary to the applicable land use plan and development plan in force; and
- (g) any other operation or use of land as may be prescribed.

(3) Without prejudice to the provisions of this Act or any regulations made thereunder relating to the control of advertisements, the use of any external part of a building for

the display of advertisements that is not normally used for that purpose, shall be treated as involving a material change in the use of that part of the building for the purposes of this section.

(4) Notwithstanding subsection (2)(d), the material change of use of any buildings or other land within the curtilage of a dwelling house, even where such use is incidental to the enjoyment of the dwelling house, shall be subject to guidelines developed by the Authority.

Sub-Part II - Permission to develop land

Requirement of permission of Authority to development land

34.(1) A person shall not carry out development of any land without the prior written permission of the Authority.

(2) A person shall, while carrying out development of any land in accordance with this Act, take such precautionary or remedial measures as may be necessary or directed by the Authority, for avoiding any damage or threat of damage to the adjoining land.

Application for permission to develop land

35.(1) An application for permission to develop land shall be made to the Authority in the prescribed form and manner.

(2) Where an application is made to the Authority for permission to develop land, the Authority may —

- (a) grant the permission, with or without conditions; or
- (b) refuse the permission for reasons to be recorded in writing and communicated to the applicant.

Conditions which may be imposed in respect of grant of permission

36.(1) Where the Authority grants permission to develop land with conditions, the Authority may impose the following additional conditions, as it considers necessary, for —

- (a) regulating the development or use of any adjacent or abutting 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 any such land, so far as it appears to the Authority to be expedient for the purposes of or in connection with the development authorised by the permission;
- (b) requiring —
 - (i) the removal of any building or work authorised by the permission; or
 - (ii) the discontinuance of any use of land authorised by the permission,

at the expiration of a specified period and the carrying out of any work required for the reinstatement of land at the expiration of that period;

- (c) requiring that the development to which the permission relates shall commence not later than a specified date or within a specified period;
- (d) requiring that the development to which the permission relates shall be completed not later than a specified date or within a specified period;
- (e) requiring a developer who effects a subdivision to ensure that any newly created parcel of land arising from the subdivision, has —

- (i) clearly established and demarcated by boundary beacons, a right of way, in accordance with the provisions of any regulations made under this Act relating to access in cases of proposed subdivision; and
- (ii) access to public services appropriate to the use for which the subdivision is intended;
- (f) requiring an estate developer to undertake or provide for any matter or work relating to new or existing roads or rights of way which may be provided for in a land use plan or development plan for that area; and
- (g) requiring the person, to whom permission is granted, to provide a monetary deposit as bond or guarantee in a form acceptable to the Authority for due performance of the conditions imposed in respect of the permission, which shall be refunded or any guarantee released upon the fulfillment, to the satisfaction of the Authority within the specified time, of the conditions so imposed;
- (h) providing that the planning permission once granted is valid for 5 year upon renewal on a period of three years from approval of which shall be determined by the period of a valid land use plan or development plan in force.

(2) Where permission to develop land includes a condition referred to in subsection (1)(b) or (c), the permission shall be for the period specified in the condition, and any development carried out after the date specified in the condition for the commencement or completion of the

development shall be deemed to be development carried out without permission.

(3) The Authority may, at any time after the grant of permission to develop land, whether granted with or without conditions, impose such additional conditions as it considers necessary.

37.(1) For the purpose of this section “national interest” means the public interest in relation to development of land to promote the public welfare or benefit for public defence, safety, order, morality or health.

Reference of applications to Minister

(2) The Minister may give directions to the Authority requiring that any application made to the Authority for permission to develop a land, which involves or affects national interest, national security, health and safety or national disaster, be referred to the Minister for determination.

(3) Where an application for permission to develop land is referred to the Minister pursuant to subsection (1), the provisions of sections 35(2) and 36 shall apply, subject to any necessary modifications, in relation to the determination of application by the Minister as they apply in relation to the determination of application by the Authority.

(4) The Minister may, prior to exercising any of the powers conferred by this section, if he or she considers it necessary to do so, appoint one or more persons to inquire into and make recommendations on such matters as he or she may specify.

(5) Any person appointed under subsection (3), shall —

- (a) keep or cause to be kept proper record of the evidence taken; and
- (b) report the finding and make recommendations to the Minister.

(6) The Minister may, after considering the records, if any, the report of findings and recommendations, decide as to the grant or refusal of the permission.

(7) The Minister shall forward his or her decision to the Authority which shall communicate the decision to the applicant.

Appeals Board

38.(1) Where an application for permission to develop land is refused or is granted subject to conditions, an applicant aggrieved by the decision of the Authority may appeal to the Appeals Board in such form and manner as may be prescribed.

(2) The Appeals Board shall consist of three members appointed by the President.

(3) Two persons appointed as a member of the Appeals Board shall have experience in legal, judicial or land use planning and sustainable development and one member shall be a representative of the Ministry responsible for Environment.

(4) A member of the Appeals Board shall be appointed on such terms and conditions as the President may determine.

(5) The members of the Appeals Board shall hold office for three years and shall be eligible for reappointment.

(6) The President shall at any time terminate the appointment of a member who has been found guilty of —

- (a) any misconduct, default or breach of trust in the discharge of that member's duties; or
- (b) an offence of such nature as renders it desirable that the member's appointment be terminated.

(7) The Appeals Board shall observe such rules of procedure as may be prescribed by regulations.

(8) After receiving an appeal, the Appeals Board may, after considering the appeal —

- (a) reject the appeal and confirm the Authority's decision;
- (b) allow the appeal in whole or in part and vary the Authority's decision;
- (c) set aside the Authority's decision and make a decision in substitution for it; or
- (d) direct the Authority to reconsider the Authority's decision,

and the appellant shall be notified in writing of the Appeals Board's decision on the appeal.

39.(1) The Authority may, on application made to it, regularise any development carried out or being carried out on a land without permission or contrary to the permission granted, and grant permission for the development with or without conditions, on payment of such fee as may be prescribed.

Regularisation of development

(2) Where the Authority grants permission to develop land under subsection (1), permission may be granted so as to take effect —

- (a) from the date, not being a date prior to the commencement of this Act, on which the development was carried out; or
- (b) from the expiration of the date, not being a date prior to the commencement of this Act, on which the development was carried out.

Delegation of power to grant permission for small, limited or minor developments

40.(1) The Authority may delegate its powers, to grant or refuse applications for permission to carry out such small, limited or minor developments on land as may be prescribed, to a committee appointed under section 12.

(2) The committee appointed under section 12 for the purposes of subsection (1) shall consider applications for permission to carry out small, limited or minor developments on land in accordance with the provisions of this Act, regulations made thereunder for small, limited or minor developments and any directives, guidelines or conditions issued by the Authority.

(3) Where the committee refuses or grants an application for permission to carry out any small, limited or minor development on land subject to conditions, an applicant aggrieved by the decision of the committee may appeal to the Authority in such form or manner as may be prescribed.

(4) Section 38 shall apply to a decision of the Authority taken under subsection (3).

Register

41. The Authority shall keep a register of applications for permission to develop land in such form and manner as the Authority may deem fit.

Revocation and modification of permission

42.(1) Subject to subsections (2) and (3), the Authority may revoke or modify a permission granted to develop land where —

- (a) the permission was granted on the basis of information, data or documents submitted by the applicant which is false, inaccurate or misleading;
- (b) the permission was granted on the basis of a circumstance, condition, or factual element that existed at the time of submission of the

application and there has been a change in such circumstance, condition, or element which warrants revocation or modification of the permission;

- (c) the development to which the permission relates does not comply or no longer complies with a land use plan or a national land use plan in force; or
- (d) in the opinion of the Authority, it is necessary to do so in the interest of national security, public welfare, health or safety.

(2) The power to revoke or modify a permission granted to develop land under subsection (1) may be exercised, where the permission relates to—

- (a) the carrying out of building or other operations, at any time before the operations have been completed; or
- (b) a change of the use of any land, at any time before the change of use 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 completed.

(3) Subsection (2) shall not apply to a revocation or modification on grounds specified in—

- (a) subsection (1)(a);
- (b) subsection (1)(b), if the change in circumstance, condition, or factual element in existence at the time and on the basis of which, the application was granted is due to the applicant; and

(c) subsection (1)(d).

(4) A person aggrieved by a revocation or modification under subsection (1) may appeal to the Appeals Board in such form and manner as may be prescribed.

Purpose for which building may be used

43.(1) Where permission is granted under this Part for carrying out a building, the permission may specify the purposes for which the building may be used.

(2) Where no purpose is specified under sub-section (1), the permission shall be deemed to include permission to use the building for the purpose for which it is designed.

Permission not necessary for resumption of use of land

44.(1) Where the Authority grants permission to develop land for a specified period, nothing in this Part shall be construed as requiring permission to be obtained under this Part at the expiry of the specified period for the resumption of the use of the land for the purpose for which it was normally used prior to the grant of permission.

(2) For the purposes of subsection (1), purposes for which land was normally used prior to the grant of permission shall not include any use of the land commenced in contravention of this Part.

Sub-Part III - Development of Land adjacent to sea

Restriction development of land adjacent to sea

45.(1) A person shall not carry out development of any land adjacent to sea without prior written permission of the Authority.

(2) A person shall, while carrying out development of any land in accordance with this Act, take such precautionary or remedial measures as may be necessary as directed by the Authority, for avoiding any damage or threat of damage to the sea shore or beach.

(3) No regularisation of any development carried out on a land adjacent to sea shall be allowed under section 39.

(4) The Authority may, on application made to it, grant permission to develop land under this part subject to the provisions of subsections (5) to (10).

(5) Where there is no alternative public access, traditional public use of a private landward access through an existing private development shall be sufficient grounds for establishing a public right of way over that access for the purpose of access to the beach by the public.

(6) Where the only landward access to a beach is through an existing private development where traditional public use pursuant to subsection (5) has not been established, the Minister may acquire the right to the public use of that beach access by gift, negotiation, contract, purchase or lease, compulsory acquisition in exchange for other property, interest, or monetary exemption, or by such other means as the Minister may recommend, as a condition of issuance of any permit or licence required under the provisions of any Act.

(7) Where land is acquired by way of compulsory acquisition for a beach access the provision of the Acquisition of Land in the Public Interest Act (Cap 249) shall apply in respect of such acquisition.

(8) Where a proposed development is likely to adversely affect the public's ability to access a beach from the landward side, any development permit shall require as a condition a landward public access through the development at all times free of charge.

(9) In this section "traditional public use" means peaceful, open, continuous and uninterrupted enjoyment of access by the Public for a period of twenty years.

(c) subsection (1)(d).

(4) A person aggrieved by a revocation or modification under subsection (1) may appeal to the Appeals Board in such form and manner as may be prescribed.

Purpose for which building may be used

43.(1) Where permission is granted under this Part for carrying out a building, the permission may specify the purposes for which the building may be used.

(2) Where no purpose is specified under sub-section (1), the permission shall be deemed to include permission to use the building for the purpose for which it is designed.

Permission not necessary for resumption of use of land

44.(1) Where the Authority grants permission to develop land for a specified period, nothing in this Part shall be construed as requiring permission to be obtained under this Part at the expiry of the specified period for the resumption of the use of the land for the purpose for which it was normally used prior to the grant of permission.

(2) For the purposes of subsection (1), purposes for which land was normally used prior to the grant of permission shall not include any use of the land commenced in contravention of this Part.

Sub-Part III - Development of Land adjacent to sea

Restriction development of land adjacent to sea

45.(1) A person shall not carry out development of any land adjacent to sea without prior written permission of the Authority.

(2) A person shall, while carrying out development of any land in accordance with this Act, take such precautionary or remedial measures as may be necessary as directed by the Authority, for avoiding any damage or threat of damage to the sea shore or beach.

(3) No regularisation of any development carried out on a land adjacent to sea shall be allowed under section 39.

(4) The Authority may, on application made to it, grant permission to develop land under this part subject to the provisions of subsections (5) to (10).

(5) Where there is no alternative public access, traditional public use of a private landward access through an existing private development shall be sufficient grounds for establishing a public right of way over that access for the purpose of access to the beach by the public.

(6) Where the only landward access to a beach is through an existing private development where traditional public use pursuant to subsection (5) has not been established, the Minister may acquire the right to the public use of that beach access by gift, negotiation, contract, purchase or lease, compulsory acquisition in exchange for other property, interest, or monetary exemption, or by such other means as the Minister may recommend, as a condition of issuance of any permit or licence required under the provisions of any Act.

(7) Where land is acquired by way of compulsory acquisition for a beach access the provision of the Acquisition of Land in the Public Interest Act (Cap 249) shall apply in respect of such acquisition.

(8) Where a proposed development is likely to adversely affect the public's ability to access a beach from the landward side, any development permit shall require as a condition a landward public access through the development at all times free of charge.

(9) In this section "traditional public use" means peaceful, open, continuous and uninterrupted enjoyment of access by the Public for a period of twenty years.

(10) While the Authority grants permission to development under this section it may impose all or any of the conditions specified in section 36.

(11) A person who fails to comply with the provision of this section commits an offence and shall be liable on conviction for a fine of SCR1,000,000.

Sub-Part IV - Preservation Orders, measures as to waste land and ruinous and dilapidated buildings and control of advertisements

Preservation
Orders

46.(1) The Authority may, where it considers it to be necessary—

- (a) in the interests of amenity or public safety, that any tree or woodlands should be preserved, make a tree-preservation order for preservation of such tree or woodlands;
- (b) that any natural features, such as rock boulders or features of historic interest should be preserved, make a preservation order for the preservation of such feature; or
- (c) that any building of special architectural or historic interest should be preserved, make a building preservation order restricting the demolition, alteration or extension of that building,

in such form and manner as may be prescribed.

(2) A person who is aggrieved by an order made under subsection (1) may appeal to the Appeals Board in such form and manner as may be prescribed.

Waste land
and ruinous
and
dilapidated
buildings

47.(1) If it appears to the Authority that the amenity of an area is seriously damaged by reason of any waste land or ruinous or dilapidated building or there is a risk to the public

health or safety by reason of any ruinous or dilapidated building, the Authority may, in the interest of amenity, by notice, require the owner or occupier of the land or the building, as the case may be, to take steps to—

- (a) abate the damage; or
- (b) in the case of ruinous or dilapidated building, demolish the building, or any part thereof, and remove any rubbish or other material resulting from or exposed by the demolition.

(2) If it appears to the Authority that the amenity of an area is seriously damaged by any rubbish or other material resulting from or exposed by the demolition or collapse of a building lying on site or on any adjoining land, the Authority may, in the interest of amenity, by notice, require the owner or occupier of the site or land, as the case may be, to take steps for removing the rubbish or material followed immediately by the implementation of a landscaping scheme submitted to and approved by the Authority.

(3) Where the owner or occupier of the land or the building to whom a notice under subsection (1) or (2) has been served, does not take action required by the notice, the Authority may take such steps as it may consider necessary in the circumstances and recover the cost of such action from the owner or occupier of the land or the building as a civil debt.

(4) The notice referred to in subsections (1) and (2) shall be in such form and manner as may be prescribed.

48.(1) The Authority shall, in the interests of amenity and public safety, regulate the display of advertisements in accordance with regulations made under this Act.

Control of
advertisements

(2) A person shall not display any advertisements contrary to regulations made under this Act.

Permission for
advertisements
deemed to be
granted

49. Where the Authority has granted permission to carry out a development and such development involves the display of advertisements or advertisements relating to the development being carried out are displayed in accordance with regulations made under this Act relating to the display of advertisements, it shall be deemed that the permission for the display of such advertisements has been granted by virtue of this section and no application for the permission to display such advertisements shall be necessary.

PART V - COMPENSATION

Sub-Part I - Compensation for refusal or grant of permission

Compensation
for refusal or
grant of
permission
subject to
conditions

50.(1) In this Part, "planning decision" means a refusal of permission under Part IV, or a grant of permission subject to conditions by the Minister under section 37 or on an appeal under section 38.

(2) If on claim made, it is shown that, as a result of a planning decision, the value of the interest of a person in the land to which the application relates, is less than it would have been if the permission had been granted or had been granted without conditions, then, the Government shall, subject to the provisions of this section and the regulations made under this Act relating to compensation, be liable to pay compensation in an amount equal to the difference in the value.

(3) A claim for compensation under subsection (2) shall be made in the prescribed form, within 6 months of the date of the decision referred to in subsection (2), or such longer period as may be prescribed.

(4) For the purposes of subsection (2), in determining whether and to what extent the value of any interest in land is less than it would have been if permission to develop the land had been granted or had been granted without conditions —

(a) it shall be assumed that any subsequent application for permission in respect of the land would be determined in the same way; and

(b) any undertaking of the Minister, on the refusal of permission to develop the land, to grant permission for any other development of the land, in the event of an application being made in that behalf shall be taken into consideration.

(5) The compensation payable under this section shall, in default of determination by agreement, be determined by the Court of competent jurisdiction.

51.(1) The compensation under section 50 shall not be payable in the following circumstances —

Compensation
not payable in
certain cases

(a) in respect of the refusal of permission for any development that consists of, or includes the making of any material change in the use of any buildings or other land;

(b) in respect of the refusal of permission to develop land, if the reason or one of the reasons stated for the refusal is that the proposed development is not in accordance with the land use plan or development plan in force;

(c) in respect of the refusal of permission to develop land, where the refusal is —

(i) for environmental authorisation for the proposed development under the Environment Protection Act; or

- (ii) on the grounds of non-compliance by the proposed development with the provisions of the Public Health Act (Cap 189); or
 - (iii) on the grounds of non-compliance by the proposed development with the provisions of the Seychelles Heritage Foundation Act (Cap 315) or the National Monuments Act (Cap 140);
- (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 one or more of the following matters, that is—
- (i) the order of priority for development in the area in which the land is situated, indicated in the development plan for that area;
 - (ii) any existing deficiency in the provision of water supplies or other utility services;
 - (iii) any existing deficiency in the means of access from the nearest public road;
 - (iv) the suitability of the land for a particular development;
 - (v) the suitability of the land for agriculture or for continued use for agricultural purposes; or
 - (vi) the existence of other land which, in the opinion of the Authority, is more

- suitable for the proposed development in the land use plan or development plan in force;
- (e) in respect of the refusal of permission to develop 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—
- (i) its excessive steepness; or
 - (ii) its likelihood to flooding;
- (f) in respect of the imposition, on the grant 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 the parking, loading or 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 road, or the materials to be used in the construction of such means of access;

- (g) in respect of the imposition, on the grant of permission to develop land, of any condition mentioned in section 36(1)(c) or (d);
- (h) in respect of any condition subject to which permission is granted for the winning and working of minerals; or
- (i) in respect of any planning decision on an application pursuant to regulations made under this Act for the regulation of the display of advertisements.

(2) For the purposes of this section, a planning decision whereby permission to develop land is granted subject to a condition prohibiting development of a specified part of that land, shall be treated as a decision refusing the permission with respect to that part of the land only.

52.(1) The compensation under section 50 shall not be payable in respect of a planning decision whereby permission is refused for development of land, if there is available with respect to that land, permission for development of a residential, commercial or industrial character which consists wholly or mainly of the construction of houses, flats, shops or office premises, hotels, garages and petrol filling stations, cinemas or industrial buildings, including warehouses, or any combination thereof.

(2) Where permission for a development specified in subsection (1) is available with respect to only a part of the land, this section shall have effect in so far as the interest in respect of which a claim for compensation is made, subsists in that part.

(3) Where a claim for compensation under section 50, is made in respect of an interest in any land, the permission for developments referred to in subsection (1) shall, for the

No compensation if other development permitted

purposes of this section, be deemed to be available with respect to that land or a part thereof, if, immediately, prior to the final determination of the claim for compensation, there is in force with respect to that land or part thereof, a permission or an undertaking by the Authority to grant the permission for such development without conditions, other than the conditions mentioned in section 36(1)(c) or (d) or section 51(1)(d).

Sub-Part II - Compensation for revocation or modification of permission to develop land

53.(1) Where a permission to develop land is revoked or modified under section 42, the Government may pay compensation to the person interested in the land, in respect of—

- (a) expenditure incurred by that person in carrying out work that is rendered unsuccessful pursuant to the revocation or modification of the permission; or
- (b) the loss or damage sustained by that person otherwise than under paragraph (a), that is directly attributable to the revocation or modification of the permission,

Compensation for revocation or modification for reasons other than depreciation in value

but no compensation shall be payable under this section in respect of a loss or damage consisting of the depreciation in value of any interest in the land by virtue of the revocation or modification.

(2) A claim for compensation under subsection (1) shall be made in writing to the Authority, in the prescribed form, within 6 months of the date of revocation or modification of the permission or such longer period as the Authority may allow.

(3) The compensation under this section shall not be payable for a revocation or modification of permission to develop land on the grounds specified in—

- (a) section 42(1)(a);
- (b) section 42(1)(b) of the Act, if the change in circumstance, condition, or factual element in existence at the time, and on the basis of which, the application was granted is due to the applicant; and
- (c) section 42(1)(d).

(4) For the purposes of this section, the expenditure incurred in the preparation of plans for the purposes of any work or for similar matters preparatory to the work shall be deemed to be included in the expenditure incurred in carrying out that work but compensation shall not be paid in respect of—

- (a) other work carried out prior to the grant of the permission that is revoked or modified; or
- (b) 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 prior to the grant of the permission that is revoked or modified.

(5) Where compensation is payable under this section in respect of expenditure incurred in carrying out any work on land, the compensation shall be reduced by an amount equal to the value of the work, if —

- (a) the Government purchases any interest in that land; or
- (b) a claim for compensation is made in respect of an interest in that land under section 49.

54.(1) Where as a result of —

- (a) the revocation of a permission to develop land; or
- (b) the modification of a permission to develop land by the imposition of conditions,

Compensation for revocation or modification in cases of depreciation in value

the value of the interest of any person in the land is less than it would have been if the permission had not been revoked or had not been modified, the Government shall, subject to the provisions of this section, section 50 and regulations made under this Act relating to compensation, pay to that person compensation of an amount equal to the difference in value.

(2) A claim for compensation under subsection (1) shall be made in writing to the Authority, in the prescribed form, within 6 months of the date of the revocation or modification of permission or such longer period as the Authority may allow.

(3) For the purposes of subsection (1), in determining whether and to what extent the value of any interest in land is less than it would have been if the permission had not been revoked or modified —

- (a) it is assumed that any subsequent application for permission in respect of the land would be determined in the same way; and
- (b) regard shall be had to an undertaking of the Authority, on the revocation of permission to develop land, to grant permission for any other development of the land, in the event of an application being made in that behalf.

(4) The compensation payable under this section shall, in default of determination by agreement, be determined by the Court.

PART VI - ENFORCEMENT

Sub-Part I - Stop notice

Stop notice

55.(1) Where the Authority has reasonable grounds to believe that—

- (a) any development is being carried out on a land without permission;
- (b) any development is being carried out on a land contrary to permission granted; or
- (c) any condition of permission granted for the carrying out of any development on land is not or has not been complied with,

the Authority may, at any time, serve a stop notice in respect of the development in accordance with the provisions of this section.

(2) Where the Authority has initiated any proceeding for the revocation or modification of any permission under section 42, it may serve a stop notice in respect of the development permitted under such permission in accordance with the provisions of this section.

(3) A stop notice may be served on—

- (a) the owner or occupier of the land;
- (b) the person representing the owner or occupier of the land for the purposes of making an application for permission to develop land;
- (c) the developer of the land; or
- (d) the contractor or any other person carrying out, performing or undertaking works

involved in the carrying out of, the development.

(4) A stop notice shall—

- (a) specify the development that is being carried out without permission or contrary to permission granted or the condition of permission granted that is not being or has not been complied with; and
- (b) require the person on whom the notice is served to discontinue the development, whole or in part.

(5) A stop notice served under subsection (1) or (2), shall come into force immediately upon service of the notice, and notwithstanding an appeal under section 38, shall remain in force until it is withdrawn by the Authority, the Minister or the Court in accordance with the provisions of this Act.

Sub-Part II - Enforcement notice

56.(1) The Authority may,—

- (a) at the time of service of a stop notice under section 55 or not later than 5 working days after service of such notice; or
- (b) where the Authority has reasonable grounds to believe that any development is being carried out without permission, contrary to permission granted or that any condition of permission granted for the development is not being or has not been complied with, as the case may be, at any time, whether or not a stop notice has been served under section 55,

Enforcement
notice

serve on the person referred to in section 55 (3) (a), (b), (c) or (d), a notice to show cause as to why an enforcement notice should not be served on that person, failing which an enforcement notice shall be so served.

(2) The show cause notice served under subsection (1) shall—

- (a) specify the development that is being carried out without permission, contrary to permission or the condition of the permission granted that is not being or has not been complied with as the case may be, and the details of the non-compliance, as the case may be; and
- (b) require the person on whom it is served that the person may, not later than 5 working days after service of the notice, to show cause as to why an enforcement notice should not be served, requiring the steps—
 - (i) specified in the notice to be taken for restoring the land to its condition prior to the development or to comply with such condition as the Authority deems necessary in the circumstances or for securing compliance with the condition that has not been complied with, as the case may be; or
 - (ii) referred to in subparagraph (i) to be taken within the period specified in the notice.

(3) Where a show cause notice is served on a person under subsection (1), the person, within 5 working days after the service of such notice,—

- (a) satisfies the Authority that an enforcement notice should not be served on him or her, the Authority shall not serve an enforcement notice on that person; or
- (b) fails to satisfy the Authority that an enforcement notice should not be served on him or her, the Authority shall serve an enforcement notice on that person.

(4) The enforcement notice served under subsection (3)(b) shall specify—

- (a) the development that is being carried out without permission, contrary to permission granted or the condition of permission granted which is not being or has not been complied with, as the case may be;
- (b) the steps to be taken for restoring the land to its condition prior to the development or to comply with such condition as the Authority deems necessary in the circumstances or for securing compliance with the condition that is not being or has not been complied with; and
- (c) the period within which the steps referred to in paragraph (b) shall be taken.

(5) The steps for restoring the land to its condition prior to the development or for securing compliance with any condition of the permission granted referred to in subsection (2)(b)(i) or (3)(b) may, in particular, require the demolition or alteration of any buildings or works.

(6) An enforcement notice shall come into effect after 14 working days of the service of that notice or on the final

determination of an appeal under section 38, whichever is the latest, where the notice requires a person to —

- (a) restore any land to its condition prior to the development or use or comply with such condition as the Authority deems necessary in the circumstances; or
- (b) demolish or alter any building or works undertaken prior to service of the notice,

Duty to
inform

57.(1) Where a stop notice or an enforcement notice is served on a person other than the owner or occupier of the land to which the notice relates, the person on whom the notice is served shall, immediately, inform the owner or occupier of the land, of such service and the contents and requirements of the notice, as the case may be, and the stop notice or enforcement notice shall contain a direction to that effect.

(2) Where a stop notice or an enforcement notice is served on the owner or occupier of the land to which the notice relates, the owner or occupier shall immediately inform —

- (a) the person representing the owner or occupier of the land for the purposes of an application for permission to develop land;
- (b) the developer of the land; and
- (c) the contractor or any other person carrying out the development,

of such service, and the contents and requirements of the notice and the notice shall contain a direction to that effect.

Where person
served with
enforcement
notice ceases
to be owner
of land

58.(1) Where an enforcement notice was served on a person who was the owner of the land prior to the expiry of the period specified in the enforcement notice or of such extended period as the Authority may allow for compliance with the

notice and who subsequently ceased to be the owner of the land, then the new owner of the land, on an application made by that person or the new owner, be made a party in any proceedings instituted in relation to the enforcement notice.

(2) If it has been proved that any steps required by the enforcement notice have not been taken, the person against whom proceedings was brought, proves that —

- (a) the failure to take the steps is attributable, in whole or in part, to the default of the new owner of the land at the relevant time, the new owner of the land shall be liable for non compliance of the enforcement notice; and
- (b) he or she took all reasonable steps to secure compliance with the enforcement notice, he or she shall be discharged from the proceedings and of any liability.

Sub-Part III - Notice of immediate enforcement

59.(1) Notwithstanding sections 55 and 56, where the Authority is satisfied on reasonable grounds that any development is being carried out without permission or contrary to the permission granted or that any condition of the permission granted is not being complied with or on public land without permission and there exists a threat to national security, public health or safety or has an adverse effect on public amenities, the Authority may serve a notice of immediate enforcement in accordance with the provisions of this section.

Notice of
Immediate
Enforcement

(2) A notice of immediate enforcement under subsection (1) may be served on —

- (a) the owner or occupier of the land;

- (b) the person representing the owner or occupier of the land for the purposes of an application for permission to develop land;
- (c) the developer of the land; or
- (d) the contractor or any other person carrying out, performing or undertaking works involved in the carrying out of, the development.

(3) A notice of immediate enforcement under section (1) shall—

- (a) specify the development carried out and the reasons and grounds on which notice is served; and
- (b) give the person on whom it is served 24 hours or such shorter period as the circumstances may require to demolish or alter any building or work or take such other measures as the Authority deems necessary in the circumstances to eliminate the threat to the national security, public health or safety or adverse effect on public amenities.

Sub-Part IV - Powers of Authority to take steps required by a notice and appeals thereof

60.(1) Subject to subsection (2), if within the period specified in an enforcement notice, or within such extended period as the Authority may allow for compliance with the enforcement notice, any steps required to be taken by the enforcement notice has not been taken, the Authority may authorise a person to enter on the land and take the steps required by such notice.

Power of Authority to take steps required to be taken by enforcement notice

(2) Subsection (1) shall not apply where the steps required to be taken by an enforcement notice consists in the discontinuance of any use of the land.

(3) The Authority may recover the expenses reasonably incurred by it in taking the steps under subsection (1) from the owner of the land as an ordinary civil debt by an order of the Court of competent jurisdiction.

61.(1) If, within the period specified in a notice of immediate enforcement, any steps required to be taken by the notice has not been taken, the Authority shall cause the authorised person to, immediately, enter on the land and take the steps required to be taken by the notice for the protection of national security, public health or safety or the preservation of public amenities, as the case may be.

Power of Authority to take steps required to be taken by notice of immediate enforcement

(2) If the Authority is unable to serve a notice of immediate enforcement on any of the persons referred to in section 59(2) within the time specified in the notice for compliance therewith, the Authority shall cause the authorised officer to, immediately, enter on the land and take the steps required to be taken by the notice for the protection of national security, public health or safety or the preservation of public amenities, as the case may be.

(3) For the purposes of subsection (2), the Authority is unable to serve a notice of immediate enforcement if the details or whereabouts of the persons referred to under subsection (2) are unknown and cannot be ascertained by the Authority within the time specified for compliance with the notice.

(4) The Authority may recover any expenses reasonably incurred by it in taking the steps required to be taken by the notice of immediate enforcement from the owner of the land as an ordinary civil debt, by an order of the Court of competent jurisdiction.

Power of entry

62.(1) A person authorised, in writing by the Authority, may, at any reasonable time and with such assistance as the person considers necessary, enter upon any land for the purpose of surveying it in connection with—

- (a) the preparation, approval or making of a land use plan or development plan relating to the land including the carrying out of any update or review of the plan under Part III;
- (b) any application under Part IV for any permission, consent or determination to be given or effected in relation to that or any other land;
- (c) the making or service of any notice, order or penalty;
- (d) determining whether the conditions subject to which permission to develop land has been granted are complied with;
- (e) determining whether any notice or order is being complied with;
- (f) determining whether the provisions of this Act are being contravened; or
- (g) any claim for compensation payable by the Government.

(2) A person authorised to enter upon any land under this section shall, if so required, produce evidence of that person's authority prior to so entering and except in the circumstances specified in subsection (1)(b), (c), (d), (e), (f) or (g), shall not demand admission as of right to any land that is occupied unless 24 hours notice of the intended entry has been given to the occupier of the land.

(3) Where any land is damaged—

- (a) in the exercise of the power of entry under this section; or
- (b) in the making of a survey for the purpose of which the power of entry under this section was conferred,

any person interested in the land may claim a compensation in respect of that damage from the Government in the form and manner as may be prescribed.

(4) The power to survey any land under this section shall include the power to search, dig, conduct test or take samples for test for the purpose of ascertaining the nature of the subsoil or the presence of minerals in the subsoil or the condition of a building.

(5) A person shall not carry out any works authorised by subsection (4), unless a notice of his or her intention to do so has been included in the notice required under subsection (2).

63. Where this Act authorises or requires an order to be made or a notice or other document to be given or served, the Authority may, to enable the making of such order or the giving or service of such notice or document, require the occupier of any premises or any person who, directly or indirectly, receives rent in respect of the premises to state the nature of his or her interest in the premises and the name and address of any other known person, having an interest therein, whether as owner, mortgagee, lessee or otherwise.

Power to require information

64. Any—

- (a) expenses incurred by the owner or occupier of any land or a contractor or other person carrying out a development on that land, for the purpose of complying with an

Liability of person by whom development was carried out

enforcement notice or notice of immediate enforcement; and

- (b) the moneys paid by the owner of any land pursuant to sections 60(3) and 61(3),

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.

Permission
not required
for lawful
use of land

65. Where a permission is not required for the use of any land for a particular purpose, but a stop notice or an enforcement notice or a notice of immediate enforcement is served in respect of a development on that land, permission shall not be required to be obtained for the use of the land for the purpose for which it could have lawfully been used if the development in respect of which the stop notice or enforcement notice or notice of immediate enforcement is served had not been carried out.

Operation of
enforcement
notice

66. The compliance with a stop notice or an enforcement notice shall not preclude the Authority from—

- (a) imposing a penalty in the manner as may be prescribed; or
(b) taking any proceedings to secure a conviction,

for any offence under this Act, committed prior to, or after, the service of the notice, including non compliance with such notice.

Service of
notices

67.(1) Subject to the provisions of this section, a notice or other document required or authorised to be served or given under this Act, may be served or given—

- (a) by delivering it personally to the person on whom it is to be served or to whom it is to be given;

- (b) by leaving it at the usual or last known place of residence of the person referred to in paragraph (a), or at the address, which has been furnished by that person for service;
- (c) by sending it in a prepaid recorded or registered letter addressed to the person referred to in paragraph (a) at that person's usual or last known place of residence or where an address for service has been furnished by that person, at that address;
- (d) by sending it by facsimile transmission or email to the person referred to in paragraph (a), where details for such transmission has been furnished by that person; or
- (e) in the case of an incorporated company or body—
- (i) by delivering it to the secretary or clerk of the company or body at their registered or principal office;
- (ii) by sending it in a prepaid, recorded or registered letter addressed to the secretary or clerk of the company or body at their registered or principal office; or
- (iii) by sending it by facsimile transmission or email at their registered or principal office.

(2) Where a notice or document referred to in subsection (1) is required or authorised to be served on or given to—

- (a) a person as an occupier of premises ; or
- (b) a person who has an interest in the premises, and the name of that person cannot be ascertained after reasonable enquiry,

the notice or document shall be deemed to be duly served or given if it is addressed to that person, whether by name or by the description of "the owner" or "the occupier", as the case may be, of the premises described in the notice or document and —

- (i) it is delivered or sent in the manner specified in subsection (1)(a), (b) or (d);
- (ii) it is marked in such manner that is plainly identifiable as a communication of importance and is sent in a prepaid recorded letter to the premises and it is not returned to the Authority sending it, or is delivered to some person on those premises or is affixed conspicuously to some object on the premises; or
- (iii) it is published in a daily newspaper on three consecutive days.

(3) Where a notice or document referred to in subsection (1) is required or authorised to be served on or given to all persons who have an interest in, or are owners or occupiers of premises comprised in any land, and it appears that any part of that land is unoccupied, the notice or document shall be deemed to be duly served if —

- (a) it is addressed to "the owners and any occupiers" of that part of the land specified in the notice or document;
- (b) is affixed conspicuously to some object on the land; and

- (c) it is published in a daily newspaper on three consecutive days.

68. A person, aggrieved by a stop notice or an enforcement notice or notice of immediate enforcement served on him or her under this Part or by the decision of the Authority to take steps required to be taken by an enforcement notice or notice of immediate enforcement, may appeal to the Appeals Board in such form and manner as may be prescribed.

Appeal

PART VII - OFFENCES AND PENALTIES

69.(1) A person who carries out development of any land without the prior written permission of the Authority or continues the development of any land where permission is revoked, commits an offence and is liable on conviction to a fine not exceeding SCR250,000 or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.

Offences relating to development without permission or in breach of conditions

(2) A person who fails to comply with any condition imposed by the permission to develop land granted by the Authority, commits an offence and is liable on conviction to a fine not exceeding SCR250,000 or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.

(3) A person who continues the use of land or is carrying out of any building or other operations on the land in contravention of a stop notice, commits an offence and is liable on conviction —

- (a) to a fine not exceeding SCR50,000 or to imprisonment for a term not exceeding 2 months or to both such fine and imprisonment; and
- (b) where the offence is continued after the service of the stop notice, to an additional fine

not exceeding SCR5,000 for each day during which the offence is continued after the day following the service of the notice.

(4) A person who continues any use of land or is carrying out any building or other operations on land in contravention of an enforcement notice or a notice of immediate enforcement or fails to comply with any directives set out in an enforcement notice or a notice of immediate enforcement, commits an offence and is liable on conviction —

(a) to a fine not exceeding SCR500,000 or to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment; and

(b) where the offence is continued after service of the enforcement notice, to an additional fine not exceeding SCR5,000 for each day during which the offence is continued after the day following the service of the notice.

(5) A contractor or other person carrying out, performing or undertaking works involved in the carrying out of a development who contravenes the approved plan for the development, commits an offence and is liable on conviction to a fine not exceeding SCR500,000.

(6) The Court may, where a person is convicted of an offence under this section, in addition to any penalty provided for under this section, order —

(a) the person to reinstate the land to which the development relates to the same condition prior to the act or omission constituting the offence took place, including the demolition or alteration of any building or work; or

(b) where the person is the holder of a permit or licence authorising him or her to carry out certain activities, and the act or omission constituting the offence was committed during the course of carrying out such activities, the revocation or suspension of the permit or licence, as the case may be.

70. A person who contravenes the provisions of a preservation order made under section 45, commits an offence and is liable on conviction to a fine not exceeding SCR250,000 or to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment.

Offence relating to preservation order

71. A person who fails to comply with the provisions of a notice to abate damage served on him or her under section 46, commits an offence and is liable on conviction to a fine not exceeding SCR500,000 or to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment.

Offence relating to notice to abate injury

72.(1) A person who displays an advertisement in contravention of regulations made under this Act regulating the advertisements, commits an offence and is liable on conviction to a fine not exceeding SCR50,000 or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment and in the case of a continuing offence, to an additional fine not exceeding SCR5,000 for every day after the first day during which the display is continued.

Offence relating to the display of advertisements

(2) Without limiting the generality of subsection (1), a person shall be deemed to display an advertisement if —

(a) the advertisement is displayed on the land of which he or she is the owner or occupier; or

(b) the advertisement gives publicity to his or her goods, trade, business or other concerns.

(3) A person shall not be guilty of an offence under subsection (1) by reason only that an advertisement is displayed on land of which that person is the owner or occupier or, that his or her goods, trade, business or other concerns are given publicity by the advertisement, if he or she proves that it was displayed without his or her knowledge or consent.

Offence relating to stop notice, enforcement notice and notice of immediate enforcement

73.(1) A person who is served with stop notice or an enforcement notice and fails to inform another person as required by section 56(1) or (2), commits an offence and is liable on conviction to a fine not exceeding SCR5,000 or to imprisonment for a term not exceeding 2 months or to both such fine and imprisonment.

(2) The owner or occupier of land or the contractor or other person carrying out, performing or undertaking works involved in the carrying out of a development on land, to which an enforcement notice relates, who fails to take the steps specified in the enforcement notice or notice of immediate enforcement within the period specified in such notice, commits an offence and is liable on conviction to a fine not exceeding SCR500,000 or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.

Offences contrary to section 61

74.(1) The owner, occupier or developer of any land who fails without reasonable cause or excuse to render assistance to a person authorised to enter upon such land under section 62, commits an offence and is liable on conviction to a fine not exceeding SCR5, 000 or to imprisonment for a term not exceeding 2 months or to both such fine and imprisonment.

(2) A person who willfully delays or obstructs a person authorised to enter upon any land under section 61, commits an offence and is liable on conviction to a fine not exceeding SCR10,000 or to imprisonment for a term not exceeding 3 months or to both such fine and imprisonment.

75. A person, required to give information under section 56, who fails to give that information or knowingly makes any misstatement in respect of that information, commits an offence and is liable on conviction to a fine not exceeding SCR5,000 or to imprisonment for a term not exceeding 2 months or to both such fine and imprisonment.

Offence relating to duty to inform

76.(1) Where the Authority is satisfied that an offence under this Act or any regulation made thereunder has been committed by any person, and the person admits to committing the offence, accepts liability for the commission of the offence and agrees in writing to the matter being dealt with under this section, the Authority, in consultation with the Attorney General, may compound the offence by accepting a sum of not less than two thirds of the maximum fine specified for the offence and not more than the maximum fine specified for the offence.

Compounding of offences

(2) Any sum of money received under this section shall be dealt with as though it were a fine imposed by a Court.

(3) Where an offence is compounded under this section, no proceedings shall be instituted for that offence.

PART VIII - MISCELLANEOUS

77.(1) Where the Authority is satisfied that it is necessary to acquire any land, immediately, in order to secure, promote or expedite the proper development of that land, or of any area in which that land is situated in accordance with the land use plan or development plan, such land may be acquired compulsorily under the Acquisition of Land in the Public Interest Act.

Acquisition and disposal of land for planning purposes

(2) Nothing in this section shall be deemed to prevent the acquisition by agreement of any such land.

(3) The Government may, by way of sale or lease or otherwise, dispose of land acquired by it under this section in

accordance with the State Land and River Reserves Act, to any statutory undertaker or other body or person for development in accordance with—

- (a) permission granted under Part IV;
- (b) the land use plan or development plan in force at the time; and
- (c) regulations made under this Act.

Regulations

78.(1) The Minister may make regulations for carrying out, or giving effect to, the provisions of this Act.

(2) Without limiting the generality of the powers under subsection (1), the regulations may provide for all or one of the following matters—

- (a) meetings and proceedings of the Board;
- (b) composition and proceedings of the committees;
- (c) the form and manner for preparation, approval and publication of land use plan, national land use plan or development plan;
- (d) specifying the land on which no development may be carried out as “no development zone”;
- (e) the form and manner in which an application for permission to develop land, including application for conceptual approval of a proposed development or for small, limited and minor developments is to be made and the information or documents to be submitted with such application and the fees to be paid with respect to the applications;

- (f) the procedure to be followed by the Authority in dealing with applications referred to in paragraph (e) and any other matter relating to such applications;
- (g) the procedure for the revocation and modification of planning permission granted;
- (h) the form and manner for appeals to, and the procedure to be followed by, the Appeals Board;
- (i) operations or uses of land for which planning permission is not required;
- (j) small, limited or minor developments;
- (k) process of public consultation in relation to operations or uses or developments;
- (l) circumstances in which compensation is payable for the refusal or grant of permission, with conditions, for development or for modification or revocation of permission, including—
 - (i) the form in which a claim for compensation may be made;
 - (ii) requirement for 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 interest of other persons therein that are known to the claimant; and
 - (iii) the formula for determining the value of interest in any land.

- (m) the control of advertisements, as may be expedient in the interest of amenity and public safety, including —
- (i) the nature, dimensions, appearance and position of advertisements that may be displayed, the sites on which such advertisements may be displayed and the manner in which they are to be affixed to land;
 - (ii) the requirement of consent of the Authority to be obtained for the display of advertisements, or of advertisements of any specified class, the manner thereof and application of Part IV to such consents, with such adaptation or modifications as may be specified;
 - (iii) empowering the Authority to require the removal of any advertisement that is being displayed in contravention of the regulations made under this Act, or the discontinuance of the use for the display of advertisements of any site that is being used for that purpose in contravention of such regulations, and for that purpose for applying any of the provisions of Part VI with respect to stop notice, enforcement notice and notice of immediate enforcement, subject to such adaptations and modifications as may be specified;
 - (iv) the constitution of advisory panels for the purposes of the control of advertisements and remunerations or allowances to be paid to members of such panels;

- (n) the form and contents of any notice, order or other document authorised or required by this Act;
- (o) provide for the manner of service of notices or documents upon the curator of vacant estates and make consequential provision in respect of such service;
- (p) for controlling and regulating the subdivision of land into two or more parcels, whether the subdivision is effected for purposes of transfer, partition, sale, gift, lease, mortgage or any other purpose whatsoever.
- (q) for the pooling and redistribution of plots of land, or for the readjustment of the boundaries, areas, shapes and positions of any plots of land;
- (r) the form and manner in which a preservation order may be made including the provision of —
 - (i) notice to be given to the owners or occupiers of land or building, as the case may be, affected by such order;
 - (ii) objections and representations with respect to the proposed order to be considered before the order is made;
 - (iii) copies of the order when it comes into operation to be served on the owners and occupiers of the land or building, as the case may be, to which the order relates and for publication of the order in the *Gazette*;

- (iv) contents and extent of application of a preservation order;
- (s) the form and content of notice of abatement of injury;
- (t) any matter relating to buildings or any specified class of building;
- (u) any fees and charges to be payable or which may be levied under this Act;
- (v) any other matter which is required or permitted to be prescribed by this Act.

(3) If any regulations made under subsection (2) (p) so directs, subject to any additions, omissions or modifications specified in such regulations, the provisions of this Act shall apply to the subdivision of land as if it were included in the definition of "development" contained in section 33.

(4) The regulations made under this section may provide that contravention of or failure to comply with any of the provisions of such regulations is an offence punishable with a fine not exceeding SCR20,000 or imprisonment for a term not exceeding 6 months or with both such fine and imprisonment.

Repeal and savings

79.(1) The Town and Country Planning Act (Cap 237) is hereby repealed.

(2) Notwithstanding the repeal of the Town and Country Planning Act—

- (a) any acts done or commenced by the Planning Authority constituted under the repealed Act, where such act is within the powers of the Authority, shall be carried on and completed by or under the authority of the Authority under this Act;

- (b) all acts done, decisions taken, permission or authorisation granted by the Authority or the Minister under the repealed Act, which were validly taken or granted under the said repealed Act, shall continue to have effect in accordance with their terms or until amended, annulled or withdrawn in accordance with this Act;
- (c) all agreements, deeds, bonds or arrangements entered into by the Planning Authority under the repealed Act, shall continue in force and be enforceable by or against the Authority as if the Authority had been a party to such agreements, deeds, bonds or arrangements;
- (d) any permission for development of land granted under the repealed Act, shall have effect as if granted under this Act;
- (e) an application for permission to develop land made under the repealed Act, in respect of which no final determination has been made, shall be treated as if the application had been made under this Act;
- (f) any land use plan or development plan made under the repealed Act, shall remain in force as if it was a land use plan or development plan made under this Act until repealed, amended or replaced by a land use plan or development plan made under this Act;
- (g) any statutory instrument or regulations made under the repealed Act, shall to the extent that they are not inconsistent with this Act, continue in force as statutory instruments or regulations made under this Act until

amended or repealed by a statutory instrument or regulations made under this Act;

- (h) any directions issued and notification made under the repealed Act, shall continue to be in effect until they are amended or repealed under the provisions of this Act;
- (i) all suits, prosecution and other legal proceedings pending or which could have been instituted under the repealed Act, shall be continued or instituted under the provisions of the repealed Act as if this Act has not been enacted;
- (j) all officers or other employees of the Planning Authority as constituted under the repealed Act, shall be deemed to be the officers and other employees of the Authority under this Act on the terms and conditions no less favourable than those subsisting immediately prior to the date of repeal of the said Act.

Transfer of
assets and
liability

80.(1) All movable property vested in, and used and managed by, and all assets, rights, interests, privileges, liabilities and obligations of, the Planning Authority constituted under the repealed Town and Country Planning Act, immediately before the commencement of this Act, shall be transferred to and vest in the Authority, immediately, upon the commencement of this Act.

(2) Where a question arises as to whether a particular movable or immovable property, asset, right, interest, privilege, liability or obligation has been transferred to or vested in the Authority under subsection (1), a certificate under the hand of the Minister shall be conclusive evidence that the movable or immovable property, asset, right, interest, privilege, liability or obligation were or were not so transferred or vested.