



TURKS AND CAICOS ISLANDS

CHAPTER 9.02
PHYSICAL PLANNING ORDINANCE
and Subsidiary Legislation

Revised Edition
showing the law as at 31 March 2021

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Ordinance.

This edition contains a consolidation of the following laws—

PHYSICAL PLANNING ORDINANCE

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Amended by Ordinances: 13 of 2005 .. in force 23 December 2005
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2 of 2010 .. in force 12 April 2010
23 of 2010 .. in force 1 November 2010 (L.N. 27/2010)
7 of 2013 .. in force 24 May 2013 (L.N. 22/2013)
35 of 2015 .. in force 22 December 2015 (L.N. 69/2015)
21 of 2016 .. in force 16 January 2017 (L.N. 3/2017)
2 of 2018 .. in force on publication 9 February 2018
23 of 2019 .. in force 22 December 2019
12 of 2020 .. in force on publication 28 April 2020

Consolidated with **PHYSICAL PLANNING APPEAL TRIBUNAL ORDINANCE**

Ordinance 23 of 2010 .. in force 1 November 2010 (L.N. 27/2010)

PHYSICAL PLANNING BOARD REGULATIONS – Section 7

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PHYSICAL PLANNING ORDINANCE

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CHAPTER 9.02

PHYSICAL PLANNING ORDINANCE

*(Ordinances 10 of 1989, 13 of 2005, 9 of 2008, 10 of 2009,
2 of 2010, 23 of 2010, 7 of 2013, 35 of 2015, 21 of 2016,
2 of 2018, 23 of 2019 and 12 of 2020)*

AN ORDINANCE TO MAKE NEW PROVISION FOR THE PLANNING AND REGULATION OF THE DEVELOPMENT AND USE OF LAND, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Commencement

[12 January 1990; section 40 expires on 22 June 2021 (Ord. 23 of 2019)]

PART I

PRELIMINARY

Short title

1. This Ordinance may be cited as the Physical Planning Ordinance.

Interpretation

2. (1) In this Ordinance—

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

“amenity order” means an order made under section 73;

“Board” means the Physical Planning Board referred to in section 4;

“builder” means a person engaged as contractor or otherwise in the erection, construction, alteration, improvement, maintenance or repair of buildings or works incidental to any of the foregoing;

“building” includes any erection or structure and any part of a building as so defined (but does not include plant or machinery comprised in a building) and any erection or structure permanently attached to the sea bed, or temporarily so attached for the purpose only of the exploitation of minerals in, on or under the sea bed;

“building inspectors” means persons appointed as building inspectors under section 83;

- “building operations” includes rebuilding operations, structural alterations of or additions to buildings and other operations normally undertaken by a person carrying on business as a builder;
- “building or works” includes waste materials, refuse and other matters deposited on land, and references to the construction of buildings or works shall be construed accordingly;
- “building preservation order” means an order made under section 69 or an interim building preservation order made under section 70;
- “building regulations” means regulations made under section 82; and a reference to building regulations, in a particular case in relation to which a requirement of building regulations is for the time being dispensed with, waived, relaxed or modified, is a reference to building regulations as they apply in that case unless the context otherwise requires;
- “Cabinet” means the Cabinet of the Turks and Caicos Islands; (*Inserted by Ord. 9 of 2008*)
- “Chief Engineer” means the person appointed as such in the public service;
- “clearing”, in relation to land, means the removal of buildings or materials from land, the levelling or grading of the surface of the land, the removal of vegetation and the carrying out of such other operations in relation thereto as may be prescribed;
- “commercial development” means any development which is not for private residential or agricultural purposes, and includes the use of land by a developer for the building on one parcel of more than one residence for sale or lease to individuals for private residential purposes;
- “conservation area” means any area declared to be a conservation area under section 76;
- “Crown land” means land of which the Crown is the owner or is registered as the lessee under the Registered Land Ordinance, or which is otherwise vested in the Crown;
- “development” means the carrying out of building, engineering, mining or other operations in, on, over or under any land, the making of any material change in the use of any building or land or the subdivision of any land:

Provided that the following shall not be deemed to constitute development—

- (a) work for the maintenance or other alteration of any building, if the work affects only the interior thereof and does not materially affect the external appearance of the building;
- (b) work carried out by the Government for the maintenance or improvement of a road;
- (c) work carried out with the approval of the Chief Engineer, or authorised under the Electricity Ordinance, for the purpose of inspecting, repairing or renewing any sewers, electric mains,

cables or other apparatus, including the excavation of any road or other land for the purpose;

- (d) the use of any building or other land within the curtilage of a dwelling-house for purposes incidental to the enjoyment of that dwelling house as such;
- (e) the use of land for any agricultural or arboricultural activity, but not including any building or engineering activity thereon or the operation of a saw mill;
- (f) the erection of gates, fences, walls or other means of enclosure, not being adjacent to highway or the sea, not exceeding three feet six inches in height and not constructed of asbestos, plastic, fibre glass or sheet metal;
- (g) the enlargement, improvement or other alteration of a dwelling house:

Provided that—

- (i) the square footage of the enlargement does not exceed one tenth of the square footage of the ground floor of the house at the date of the development or of the house at the commencement of this Ordinance, whichever is the larger;
- (ii) the enlargement is single storey;
- (iii) the enlargement is an integral part of the existing house;
- (iv) the enlargement complies with the requirements of any planning and building regulations for the time being in force; and
- (v) written notice of intention to carry out such work is given to the Board through the Director;

“development permission” means permission for development given under Part VI;

“development plan” means any development plan prepared under Part V and includes any modification or amendment thereof, and “plan” means a development plan where the context so admits;

“Director” means the Director of Planning appointed under section 10;

“enforcement notice” means a notice issued under section 58;

“engineering operations” include the laying out, building and maintenance of roads, runways and bridges, the preparation of land for construction of any development, the clearing of land, the dredging of watercourses or channels and the filling in of any cavity or excavation;

“Governor” means the Governor in Cabinet; (*Inserted by Ord. 9 of 2008*)

“Governor in Cabinet” or any cognate phrase means the Governor acting with the advice of the Cabinet; (*Inserted by Ord. 9 of 2008*)

“industrial development” means the development of land for the manufacture or partial manufacture of goods, articles or substances of any kind, the repair of goods or articles or the assembly of manufactured goods or the turning into manufactured goods of articles which are partially manufactured or of substances in their natural condition;

“land” has the meaning given to that expression in the Registered Land Ordinance;

“low cost housing” means housing in areas designated by the Board for the purpose of constructing accommodation to a lesser standard than required elsewhere;

“Minister” means the Minister to whom has been assigned responsibility for development, planning and related matters;

“mineral” means any substance in liquid, solid or gaseous form occurring naturally in or on the earth or on, in or under the sea bed and formed by or subject to a geological process, but does not include water;

“mining operation” means—

- (a) to carry out in relation to any mineral, any activity with a view to working, carrying away, treating or converting that mineral;
- (b) to search or explore for any mineral with a view to carrying out any activity mentioned in paragraph (a) of this definition and to carry out any work necessary for such search or exploration;
- (c) the deposit of waste or refuse materials in consequence of or incidental to any activity mentioned in paragraph (a) or (b) of this definition;

“parcel” means an area of land which is separately delineated and given a number on the Registry Map maintained under section 14 of the Registered Land Ordinance;

“permitted development” means development which is authorised under section 41(2);

“Physical Planning Appeal Tribunal” and “Tribunal” mean the Physical Planning Appeal Tribunal established by section 15; (*Amended by Ord. 23 of 2010*)

“plant” in relation to vegetation includes any flower, shrub, tree and any lichen, moss or other vegetation in such proximity to any plant that the continued existence of such lichen, moss or other vegetation promotes or assists in securing the growth or survival of any plant;

“plant preservation order” means a plant preservation order or an interim plant preservation order made under section 71;

“regulations” means regulations made under any provision of this Ordinance, other than building regulations;

“repealed Ordinance” means the Planning and Development Ordinance repealed by this Ordinance;

“Secretary” means the person appointed as Secretary to the Board, under section 6;

“site” means development site; *(Inserted by Ord. 2 of 2018)*

“subdivide”, in relation to land, means to divide a parcel of land into two or more parcels;

“unauthorised development” means any development for which a grant of development permission has not been obtained and which is not permitted development authorised under section 41(2);

“waste material” includes garbage, refuse, ordure, spoil and mineral tailings and any thing of whatsoever kind which has the appearance of being abandoned by the owner or former owner thereof, or the only value of which appears to be as scrap or for the utilization of parts thereof or the extraction of the residue of the substance of which it formerly formed part.

(2) The use for the display of an advertisement on any land or the external part of a building, which is not ordinarily used for that purpose, shall be deemed to involve a material change in the use of that land or part of the building.

(3) For the avoidance of doubt it is declared that—

- (a) the use as two or more separate dwelling houses of any building previously used as one dwelling-house involves a material change in the use of that building and of each part thereof so used;
- (b) the deposit of any waste material on land involves a material change in the use of the land, notwithstanding that the deposit is on a site which has been previously so used, if either the superficial area thereof or the height of the deposit is thereby extended or exceeds the level of similar deposit on adjoining land.

PART II

THE MINISTER

Duties of the Minister

3. (1) It shall be the duty of the Minister to secure consistency and continuity in the framing and execution of a comprehensive policy with respect to the use and development of all land in these Islands to which this Ordinance applies in accordance with a development plan for these Islands prepared in accordance with Part V or otherwise in operation by reason thereof.

(2) All acts of the Minister may be signified under the hand of the Director or such other officer as the Minister may authorise.

*Physical Planning Board***The Board**

4. (1) The Physical Planning Board is hereby established.

(2) The Board shall consist of —

- (a) the Director;
- (b) the Director, Disaster Management and Emergencies or his designate;
- (c) the Director, Department of Environmental and Coastal Resources or his designate; and
- (d) four other members appointed by the Governor for a term not exceeding two years, from among whom the Chairman and Vice-Chairman shall be selected and who shall be appointed by the Governor for a term not exceeding two years. (*Substituted by Ordinance 10 of 2009*)

(3) If at any time there are less than seven members of the Board the Governor shall, as soon as may be by notice in the *Gazette* appoint such additional members as may be necessary to bring the number up to seven members:

Provided that the validity of any thing done by the Board shall not be affected by any vacancy in the membership of the Board unless the number of members is less than three. (*Amended in Revised Edition 2014 pursuant to Ordinance 10 of 2009*)

(4) Any member of the Board may be reappointed as a member upon the expiration of the term of his appointment.

(5) Any member of the Board may resign his office upon giving written notice to the Governor. The Governor may revoke the appointment of any member of the Board upon giving written notice to that member.

(6) Section 32 of the Interpretation Ordinance shall apply and the Chairman shall have an original and casting vote on any matter or question before the Board.

(7) The Board shall be deemed to be a public board for the purposes of sections 34 and 35 of the Interpretation Ordinance.

Meetings of the Board

5. (1) A meeting of the Board shall be convened by the Chairman, or in his absence from the Islands or his inability for any reason to act, by the Vice-Chairman:

Provided that the Chairman (or Vice-Chairman as the case may be) shall convene a meeting at any time upon being requested in writing so to do by not less than four members:

Provided further that the Minister may direct the Secretary that a meeting shall be convened and the Secretary, within fourteen days of such direction, shall convene a meeting accordingly. (*Amended by Ord. 9 of 2008*)

(2) The Board shall meet at such times and places as it shall nominate and the Minister shall approve; and for the avoidance of doubt, such meetings may be held at convenient locations in any island in the Turks and Caicos Islands.

(3) Three members shall constitute a quorum of the Board. (*Amended by Ordinance 10 of 2009*)

(4) If at any meeting both the Chairman and the Vice-Chairman are absent for any reason, the members present shall elect one of their number to preside at the meeting.

(5) The Director shall be entitled to attend at any meeting and to advise the members on the performance of any of their functions under this Ordinance, but shall not be entitled to vote on any matter before the meeting.

Secretary to the Board

6. (1) The Governor shall appoint a person to be the Secretary to the Board.

(2) The Secretary, or in his absence any planning officer instructed for the purpose by the Director, shall attend all meetings of the Board, but may not vote on any matter or question before the Board, and shall be responsible for preparing and maintaining all records and minutes of the proceedings of the Board and of applications made to the Board.

(3) The Secretary shall perform such duties as are or may be conferred upon him by this Ordinance and such other duties as may be required by the Director.

Regulations for Board

7. (1) The Governor may make regulations—

- (a) for the purpose of specifying the powers and duties of the Board;
- (b) for the purpose of facilitating the work of the Board; and
- (c) generally for the purpose of carrying this Ordinance into effect.

(2) The power of the Board to regulate its own procedure by standing orders under section 34 of the Interpretation Ordinance shall not be affected, unless such standing orders are contrary to regulations made under subsection (1) when the regulations shall prevail.

Members not to participate in certain discussions

8. (1) Any member of the Board who has any personal interest in any matter which comes before the Board for discussion at any meeting of the Board during any times when he is present at that meeting, shall forthwith declare that interest and shall withdraw from the meeting and remain absent whilst that matter is under discussion.

(2) The Secretary shall maintain a book or register in such form as is approved by the Governor in which he shall record particulars of any declaration of interest made pursuant to subsection (1) and that register shall be open to inspection by the public. (*Amended by Ord. 9 of 2008*)

(3) Any member of the Board who—

- (a) knowingly fails to declare any interest he is obliged by subsection (1) to declare; or
- (b) having declared such an interest in accordance with subsection (1) fails to withdraw from the meeting; or
- (c) having withdrawn from the meeting in accordance with subsection (1), returns to that meeting during a time he is required by subsection (1) to absent himself therefrom,

commits an offence and is liable on conviction to a fine of \$10,000 and to imprisonment for a term of two years.

Meaning of “personal interest”

9. (1) For the purposes of section 8 a person has a personal interest in a matter which comes before the Board for discussion if he or any relative of his has, to his knowledge, a relevant interest in land.

(2) In this section—

- (a) “relative” means the spouse, brother, sister, father, mother or children of the person concerned, or of any of the said persons; and for the purpose of this section a relationship shall be established as if any illegitimate child, stepchild, or adopted child of such person had been a child born to him in wedlock;
- (b) any company in which any relative of the person concerned holds or controls 10% or more of the shares carrying voting rights at general meetings or in which persons who are his relatives in combination hold or control 10% or more of the shares carrying voting rights at general meetings or in which he and any relative hold or control 10% or more of the shares carrying voting rights at general meetings is deemed to be a relative of the person concerned;
- (c) a person for whom the person concerned acts as a nominee, trustee or attorney in fact is deemed to be a relative of that person.

(3) For the purposes of subsection (1), a person has a relevant interest in land if—

- (a) he or any relative of his owns the freehold or any lease or any charge by way of security of any land or any option to acquire any of the foregoing interests over or in respect of any land—
 - (i) which is the subject of any application or the subject of any discussion to which section 8(1) relates;

- (ii) which adjoins any part of any land to which subparagraph (i) relates; or
 - (b) he or any partner of his or any company of which he is a director or employee has within the past twelve months furnished any advice for or in expectation of gain in any connection with the use, enjoyment or development of any land to which paragraph (a) relates; or
 - (c) he or any partner of his or any company of which he is a director or employee has within the past twelve months been, in respect of any land to which paragraph (a) relates, the nominee of the owner or the trustee of the owner.
- (4) Notwithstanding subsection (2) a person and any relative of his shall be deemed not to have a relevant interest in land if—
- (a) he would have that interest by subsection (2) only by reason of his being a trustee or nominee of a church or charity or in the course of his duties as a member of the Board; or
 - (b) he has furnished advice only in the performance of his duties as a public officer.

Planning Staff

Director of Planning

10. (1) The Governor shall appoint a person to be the Director of Planning, and may appoint a Deputy Director to exercise and perform the powers and duties specified in subsection (5).

(2) Subject to this Ordinance, the Director shall be responsible to the Minister for the administration and operation of the system of planning for which this Ordinance provides.

(3) The Director shall sign and issue all development permissions, refusals of development permission, enforcement of notices and other documents authorised by the Board to be issued under this Ordinance.

(4) The Director shall have such powers as are conferred upon him by this Ordinance and such duties as he is required by this Ordinance or by the direction of the Minister to perform.

(5) In the absence of the Director from the Islands, the powers and duties of the Director under this Ordinance shall be exercised and performed by such other public officer as the Governor, may direct. (*Amended by Ord. 9 of 2008*)

Delegation by Board to Director

11. (1) The Board may delegate in writing its powers under section 42 to the Director, in respect of an application for a grant of development permission in one or more of the following categories—

- (a) an application to erect a residential building;

- (b) an application to display an advertisement;
- (c) an application to erect a boundary wall of more than three feet six inches;
- (d) an application for permission to subdivide land to a maximum of six parcels.

(2) In the exercise of his delegated power under subsection (1), the Director shall in writing inform the Board when he has formed an opinion to refuse an application for a grant of development permission.

(3) Upon receipt of the Director's opinion under subsection (2), the Board shall consider the application and shall make its own decision in the matter.

(4) The Board may at any time in writing revoke a delegation made under subsection (1).

(5) A delegation under subsection (1) does not prevent the exercise by the Board of a power so delegated.

(Inserted by Ord. 12 of 2020)

Exercise of functions of the Director

12. (1) Any functions assigned to the Director by or under this Ordinance, other than those mentioned in section 10(3), may be exercised by any planning officer authorised, either generally or specially, in that behalf by the Director.

(2) Any person exercising any function assigned to a planning officer by or under this Ordinance shall be deemed, for the purpose of the exercise of such function, to be the proper officer for the exercise of such function, if authorised for the purpose by the Director, and shall be deemed to have the powers of a planning officer for the purpose of that function.

Protection of persons acting *bona fide* under this Ordinance

13. No civil proceedings in any court shall lie against the Governor, the Minister, any member of the Board, the Director or any other public officer in their respective private capacities for or in respect of any act or matter done or omitted to be done, in good faith, in the exercise or purported exercise of any function under or power conferred by this Ordinance.

PART III

PHYSICAL PLANNING APPEAL TRIBUNAL

Definitions in Part III

14. In this Part—

“chairman” means the chairman of the Tribunal appointed under section 16;

“Islander” has the same meaning as in the Turks and Caicos Islander Status Ordinance;

“member” means a member of the Tribunal appointed under section 16.
(Consolidated from s.2 of Ord. 23 of 2010)

Establishment of Tribunal

15. There is established a Physical Planning Appeal Tribunal. (Consolidated from s.3 of Ord. 23 of 2010)

Composition of Tribunal

16. (1) The Tribunal shall consist of a chairman and four other members appointed by the Governor from among persons appearing to the Governor to be of high character and integrity and to be qualified as having had extensive and relevant professional expertise in matters relevant to the functions of the Tribunal, provided that the members of the Tribunal shall be Islanders.

(2) The Governor shall, acting after consultation with the Tribunal, appoint a person (not being a member) to be the secretary of the Tribunal, who shall be present at all meetings of the Tribunal and take minutes of the business transacted. (Consolidated from s.4 of Ord. 23 of 2010)

Term of appointment of members

17. (1) The members of the Tribunal shall be appointed by instrument for such period not exceeding three years, as may be specified in their respective instruments of appointment.

(2) A member is eligible for re-appointment. (Consolidated from s.5 of Ord. 23 of 2010)

Functions of the Tribunal

18. (1) The functions of the Tribunal shall be to hear and determine appeals against decisions of the Board.

(2) In carrying out the functions mentioned in subsection (1), the Tribunal shall be bound by and shall, as applicable, give effect to, the Ordinance.

(3) Subject to this Part, in the exercise and discharge of its functions the Tribunal shall not be subject to the direction or control of any person or authority. (Consolidated from s.6 of Ord. 23 of 2010)

Emoluments of members

19. There may be paid to each member who is not a public officer such remuneration as the Governor may determine. (Consolidated from s.7 of Ord. 23 of 2010)

Resignation and removal from office

20. (1) A member of the Tribunal may resign his office by giving notice in writing to the Governor, but the resignation shall not take effect until the Governor has received the notice.

- (2) A member shall vacate his office—
- (a) upon termination of his appointment by the Governor;
 - (b) upon resigning his office;
 - (c) if he is declared bankrupt, suspends payment to or compounds with his creditors;
 - (d) if he convicted of an offence involving dishonesty, fraud or any indictable offence; or
 - (e) if he fails to disclose a conflict of interests in accordance with this Ordinance; or
 - (f) if he absents himself, except with the leave granted by the chairman, (or in the case of the chairman, except with leave granted by the Governor) from three consecutive meetings of the Tribunal.

(3) The Governor shall cause every appointment, removal, resignation and death of a member to be published in the *Gazette*. (Consolidated from s.8 of Ord. 23 of 2010)

Meetings

21. (1) The chairman shall preside at all meetings of the Tribunal.

(2) The chairman and two other members shall constitute a quorum at any meeting of the Tribunal.

(3) Every appeal before the Tribunal shall be determined by the opinion of the majority of the members present, but if the members present are equally divided in their opinions, the chairman shall have and exercise a casting vote.

(4) In the case of the absence or inability of the chairman to act at any meeting (except for recusal), the chairman may authorise in writing any other member to preside at the meeting; and in case of the recusal of the chairman, the remaining members shall elect a member to preside at the meeting.

(Consolidated from s.9 of Ord. 23 of 2010)

Conflict of interest of members

22. A member of the Tribunal who is directly or indirectly interested in any appeal before the Tribunal, shall disclose to the Tribunal the fact and nature of his interest and shall not take part in any deliberation or any decision of the Tribunal relating to the said proceedings, and such a disclosure shall forthwith be recorded in the records of the Tribunal. (Consolidated from s.10 of Ord. 23 of 2010)

Protection of members acting in good faith

23. No action, suit, prosecution or other proceedings shall be brought or instituted personally against the chairman or any member of the Tribunal in respect of any act done *bona fide* in the course of the operations of the Tribunal. (Consolidated from s.11 of Ord. 23 of 2010)

Procedure generally

24. Subject to this Ordinance, the Tribunal shall have power in all respects to regulate its own procedure, including the manner in which matters subject to the determination of the Tribunal are determined by it. *(Consolidated from s.12 of Ord. 23 of 2010)*

Records of decisions

25. The Tribunal shall keep a full and complete record of its meetings and of any decision taken on an appeal. *(Consolidated from s.13 of Ord. 23 of 2010)*

PART IV

PLANNING POLICY AND EXERCISE OF PLANNING FUNCTIONS

General duty

26. (1) It shall be the duty of the Governor, the Minister, the Board, the Director and all planning officers charged by or under this Ordinance with the exercise of any power or the performance of any duty to exercise that power or to perform that duty in such manner as will promote development of land which—

- (a) is consistent with a coherent policy for the development of land in the Islands (including any development plan having effect in accordance with this Ordinance);
- (b) promotes orderly development of the Islands in such manner as is beneficial to the people of the Islands; and
- (c) takes into account environmental, social and economic considerations.

(2) The Board shall furnish the Minister with such returns and other information with respect to the exercise by them of their functions as he may from time to time require.

(3) The Minister shall not later than the 31st day of March in each year submit to the Governor, and the Board shall submit to the Governor, through the Minister, a report in writing relating to the year expired on the preceding 31st day of December containing the following information, and such other information as the Governor may direct—

- (a) the number and type of applications for development permission received;
- (b) the number and type of applications for development permission granted;
- (c) the number and type of applications for development permission refused;

- (d) the number and type of applications for development permission granted on appeal under this Ordinance;
- (e) the aggregate fees paid under this Ordinance;
- (f) the number and the venue of meetings of the Board held during the year;
- (g) any difficulties the Minister or the Board has encountered in meeting the objectives set out in subsection (1)(a), (b) and (c) ; and
- (h) any recommendations the Minister or the Board wishes to make as to the amendment of this Ordinance or the regulations then in force or the making of new legislation to assist in the fulfilling of those objectives;
- (i) as regards the Minister's report—
 - (i) the number and type of applications for a Minister's certificate of approval received;
 - (ii) the number and type of applications for a Minister's certificate of approval granted;
 - (iii) the number and type of applications for a Minister's certificate of approval granted on appeal under this Ordinance;
 - (iv) a brief resume of any applications for a Minister's certificate of approval which the Minister considers should be included in the report, or which have been specifically requested by the Governor.

(4) The Governor may instruct the Director to publish in the *Gazette* such information contained in the reports as may be deemed appropriate, and the Director shall effect the publication thereof. (*Amended by Ord. 9 of 2008*)

(5) No court shall inquire into whether the Governor, the Minister, the Board, the Director or any planning officer in exercising any function under this Ordinance has taken the objectives set out in subsection (1) into account.

Assistance by the Director

27. The Director and any planning officer authorised by him may discuss with any person interested in developing any land or any proposed development of any land, but nothing the Director may say in any discussion contemplated by this section, or any diagram, schematic drawing or other material he may provide or consider as a result of, or during any such discussion shall bind the Governor, the Minister, the Board or the Director as to the manner in which any power under this Ordinance may be exercised or to exercise any such power as the case may be or require him to perform any duty which they or he would not otherwise be obliged to perform.

Governor's and Minister's Directions

Policy directions to the Board

28. (1) The Minister may give directions in writing to the Board as to the general policy to be pursued as to the grant of development permission. (*Amended by Ord. 13 of 2005*)

(2) No court shall inquire as to whether or not in any particular case the Board has complied with any direction given under subsection (1).

Certain causes of action barred

29. (1) No suit or proceedings whatsoever may be brought by any person against the Government, the Governor, the Minister, the Board, or any other public officer on the ground or partly on the ground that development permission has been granted for the development of any land in any manner.

(2) It is declared that in exercising their respective functions under this Ordinance, no action in negligence shall lie against the Government, the Governor, the Minister, the Board, or any other public officer by any owner or occupier present or future of any land, building or structure so as to render them or any of them liable for any loss or damage whatsoever, occasioned or partly occasioned by the exercise of that function or the manner in which that function was exercised but nothing in this subsection shall operate so as to relieve any of the before-mentioned authorities or persons from any liability arising otherwise than in negligence.

Advisory Role of Director

Director's advice

30. (1) The Director is the principal adviser to the Governor, the Minister and the Board on matters relating to the physical planning and development of land.

(2) Before exercising any function conferred by this Ordinance in relation to any matter the Minister and the Board shall obtain and consider the advice of the Director.

(3) No court shall inquire whether in relation to any particular matter the Minister or the Board has sought and obtained the advice of the Director.

PART V

DEVELOPMENT PLANS

Proposal for development plan

31. (1) The Director may, and if so required by the Governor shall, submit to the Minister proposals for the preparation of a development plan.

- (2) A proposal for the preparation of a development plan shall include—
- (a) a reasoned statement of need for the plan;
 - (b) the main headings for the proposed contents of the plan;
 - (c) a suggested timetable for the preparation of the plan;
 - (d) proposals for obtaining representations by and the views of people likely to be affected by or likely to wish to submit representations and views on the proposed plan during the course of its preparation;
 - (e) such other matters as are required by the Minister or are considered by the Director to be necessary for a decision to be made on the proposal.

(3) Where the Minister rejects a proposal submitted under this section, he may require the Director to submit a fresh or modified proposal for the same plan or a new proposal for a different plan.

Scope of development plan

32. (1) A development plan may be prepared—

- (a) for the Islands as a whole, and shall be called a National Physical Development Plan; or
- (b) for the whole or any specified part of any island, and shall be called by the name of the island or part thereof to which it relates; or
- (c) in relation to any particular subject matter and shall be called by the appellation of the matter for which it is made, and shall be in such detail and be intended to cover such periods of time as appear to the Director to be appropriate for the purpose for which it is made.

(2) A development plan shall include—

- (a) a summary of the principal features of the plan;
- (b) a report on the existing conditions of the area or the subject matter to which the plan would relate;
- (c) an explanation of the proposals and their justification;
- (d) such maps, plans, diagrams and other material as the Director considers necessary to illustrate and explain the plan.

(3) A development plan may include—

- (a) a statement of the general principles and policies which it is considered should govern the regulation and control of development in the area concerned;
- (b) the specification and allocation of sites for different types of development, including any development for public purposes or for use by the general public;

- (c) the designation of any area as being an area which, for environmental, ecological, aircraft, safety or other similar reasons should not be developed;
- (d) proposals for the preservation of buildings for architectural, cultural or historical reasons;
- (e) such other matter as the Director considers desirable to explain or support any part of the proposed plan on demographical ecological, economic or social grounds.

Preparation of development plan

33. (1) The Director shall be responsible for the preparation of any development plan.

(2) The Director shall keep the Minister and the Board informed of the progress with the preparation and the likely general content of a plan which is in the course of preparation and shall have regard to any comments or representations made by the Minister or the Board on the proposed plan.

Consideration of draft development plan

34. (1) When the Director has prepared a draft development plan he shall send a copy to the Minister and shall deposit a copy at the office of the Department of Planning and at such other place or places as the Minister considers to be most effective for bringing it to the notice of persons residing, working or owning property in the area to which the draft development plan relates, or who are likely to be affected by the proposals in the draft development plan.

(2) The Director shall give notice in the *Gazette* of the depositing of a draft development plan, and of the places where it may be examined, and shall give such other publicity to and explanation of the draft development plan as, in his opinion, is best calculated to inform all persons affected or likely to be affected by the proposals in the draft development plan and of any person the right to make representations with regard to the proposals in the draft development plan.

(3) Any person may, within eight weeks of the publication in the *Gazette* of the notice referred to in subsection (2), make either oral or written representations on the draft development plan to the Director.

(4) After the expiration of the period prescribed for making representations on a draft development plan, the Director shall lay the draft development plan, together with all representations and comments made with respect thereto, before the Board; and the Board shall meet and consider the draft development plan and such representations and comments and shall forward the same together with its own recommendations and comments to the Minister, who shall submit the same to the Governor with his own recommendation thereon.

Approval of development plan

35. (1) The Governor, after considering a draft development plan which has been submitted to him under section 34, and all comments, representations and recommendations made thereon, may approve the draft development plan with or without modifications, or may reject, require further work on or revision of, or may require further consultations on, the draft plan in whole or in part.

(2) Where the Governor determines that before a draft plan is approved further modifications to, further work on or revision of or consultations on, the draft plan are required, he may require the Director to undertake such further work, revision or consultation as may be necessary and to give such publicity to the matter as will enable persons likely to be affected or interested to make representations or comments on what is involved.

(3) Unless the Governor otherwise directs, section 34(3) and (4) shall apply to any modifications, work or revision undertaken by the Director under this section and to the re-submission of the draft plan or any modifications thereof.

Deposit of approved plan

36. (1) When a development plan has been approved by the Governor, in whole or in part, a copy of it shall be deposited at the offices of the Department of Planning, the Survey Department and with the Registrar of Lands at the Land Registry, and the substance of the plan shall be publicized in the area or areas to which it applies, in such manner as the Minister may direct.

(2) A copy of a National Physical Development Plan, or of any plan which affects, or may affect, all the Islands, shall be deposited at the office of every District Commissioner; and a copy of a plan which only applies to part of the Islands shall be deposited at the office of each District Commissioner responsible for the area concerned.

(3) Notice of the deposit of a development plan shall be published in the *Gazette* and the plan shall come into effect on the date of such publication.

(4) Copies of a plan shall be available for inspection and purchase, at such price as may be prescribed, at all reasonable times at the office of the Department of Planning.

Modification or revocation of plan

37. (1) The Minister may require the Director to review or prepare proposals for modification or revocation of any plan, or any part thereof.

(2) Without prejudice to subsection (1), it shall be the duty of the Director to keep under review the operation of any plan in the light of changing circumstances in the area to which it applies, or for any other reason which in his opinion requires such review, and if he considers it desirable he may prepare proposals for the modification or revocation of any plan and shall submit the same to the Minister.

(3) The provisions of this Ordinance with respect to the preparation, consideration and approval of a development plan shall apply with such modifications as the circumstances require to the preparation, consideration and approval of the modification or revocation of a plan.

(4) Subject to this Ordinance, the Governor may modify or revoke any plan or part thereof.

Application of different plans applicable to the same area

38. (1) If there is any conflict or discrepancy with regard to the application or interpretation of two or more plans drawn to different scales, the plan drawn to the larger scale shall have precedence.

(2) Where two different plans have been approved which apply in whole or in part to the same area, the later plan shall be deemed, so far as there is any conflict between the two, to have modified the earlier plan unless there is express provision to the contrary.

Legal status of development plan

39. (1) When a plan has been approved by the Governor—

- (a) it shall be the duty of all public officers to have due regard to, and so far as is practicable be guided by, the plan in formulating and preparing any project of public investment and development in the Islands;
- (b) the Minister and the Board shall, in considering any application for development permission, have regard to, and, as far as it appears to be consistent with the objectives set out in section 14(1), be guided by the plan.

(2) The Board shall, if it appears to it that to grant an application for development permission would be inconsistent with a plan which has been approved by the Governor, but nevertheless considers that such permission should be granted—

- (a) refer the application to the Minister who shall pass the application to the Governor for his consideration; and
- (b) defer a decision on the application until the advice of the Governor has been received in relation to that application; and
- (c) not grant development permission in relation to the application unless the Governor has advised it that development permission should be granted thereon.

(3) Where an application for development permission is to be considered by the Minister under this Ordinance, and it appears to him that a grant of such application would be inconsistent with a plan which has been approved by the Governor, but the Minister nevertheless considers that such permission should be granted, he shall refer the application to the Governor and shall thereafter apply subsection (2)(b).

(4) When a plan is in the course of preparation or has been prepared but not yet approved by the Governor, subsection (1) shall apply as if the plan had been approved.

(5) No court shall inquire into whether the foregoing subsections have been complied with in relation to any matter.

Where no development plan approved

40. Notwithstanding the requirement of this Part, where no development plan has been approved, the Governor may make regulations under section 79 as to planning standards, including setting building height, density and setbacks:

Provided that the Governor, before making regulations as to building height and density, may require the Director to undertake such consultation as may be necessary to give such publicity to the matter as will enable persons likely to be affected or interested to make representations or comments.

(Inserted by Ord. 35 of 2015)

PART VI

DEVELOPMENT CONTROL

Restriction on development

41. (1) No person shall carry out any development unless, prior to the commencement of such development, approval therefor has been obtained under this Ordinance or the development is permitted development authorised under subsection (2).

(2) The Governor may by order provide that any development or class of development shall be permitted without the requirement for a grant of development permission; and any such development is hereinafter referred to as permitted development.

Types of development permission

42. A grant of development permission shall be one of the following—

- (a) outline development permission, the effect of which is to give to the grantee, or his successor in title, approval in principle to the proposed development which is the subject of an application, but not to permit any actual development to take place until a grant of detailed development permission has been made in respect of the same development, or part thereof, for which outline development permission was given;
- (b) detailed development permission, the effect of which is to permit the grantee, or his successor in title, to carry out the development, subject to the terms and conditions of the grant of detailed development permission;

- (c) permission to subdivide land, the effect of which is to permit the grantee, or his successor in title, to subdivide, or to make an agreement to subdivide, land which is the subject of the application, subject to the terms and conditions of the permission to subdivide the land;
- (d) permission to display an advertisement, the effect of which is to permit the grantee, or his successor in title, to display an advertisement subject to the terms and conditions of the permission to display the advertisements.

Applications for development permission

43. (1) An application for a grant of development permission shall be submitted to the Board through the Director, in accordance with the requirements of any regulations made with respect to such applications, and shall be accompanied by the fee prescribed therefor.

(2) The Director, by written notice served on an applicant for a grant of development permission, may require the applicant to do either or both of the following, namely—

- (a) publish details of his application at such time or times and in such place or places and in such manner as may be specified in such notice;
- (b) give details of his application to such persons or authorities as may be specified in such notice,

if the Director is of the view that the application will, or is likely to derogate from the amenities of the public or of adjoining, adjacent or nearby properties.

(3) The Director shall notify the applicant for development permission, in writing, of the decision on the application, giving—

- (a) where the application is granted, the conditions (if any) subject to which the permission is granted and the reasons therefor; or
- (b) where the permission is refused, a brief statement of the reasons for such refusal.

(4) The Director shall inform an applicant for development permission of the decision taken on his application within sixty days of the receipt by him of the application, or, where no decision has been made within the time, of the progress made on the application and the likely date when a decision will be made:

Provided that if no decision is made within sixty days of receipt of the application, that application shall be deemed to have been refused for the purposes of section 97(1)(a).

(5) Notwithstanding anything in this section, an applicant may apply for an expedited grant of development permission, in accordance with the requirements of any regulations made with respect to such applications, and shall pay the prescribed fee. (*Inserted by Ord. 21 of 2016*)

Minister's certificate of approval

44. (1) Where an application for permission to develop land is made to the Board pursuant to this Part, and the proposed development falls within one or more of the categories specified in subsection (2), the Board shall, without prejudice to the generality of its discretion to refuse permission under this Ordinance, refuse permission unless the application is accompanied by a certificate of approval granted under this section.

(2) A certificate of approval shall be required in respect of the following applications—

- (a) applications for permission to erect or convert an existing building into an hotel of more than ten guest bedrooms;
- (b) applications for permission to increase the provision of sleeping accommodation for guests in an hotel of more than ten bedrooms;
- (c) applications for permission to develop Crown land;
- (d) applications for permission to develop more than one subdivision or for the subdivision of land into more than ten parcels;
- (e) applications for permission for developments which appear to the Director to involve expenditure exceeding \$1,000,000, excluding the value of the land required to effect such development;
- (f) applications for permission for a development of a type or class which may from time to time be specified by the Governor or the Minister.

(3) To establish whether a certificate of approval is required under subsection (2)(f), the Director shall, on receipt of an application for permission for development which he considers, in his discretion, may require such certificate, forward a copy of the application for permission to develop with his observations thereon, to the Minister, and shall notify the applicant and the Board of this action; and the application shall thereupon be regarded as requiring a certificate of approval, unless the Minister notifies the applicant and the Director that no certificate is required in respect of the application.

(4) An application for a certificate of approval shall be made to the Minister in such form and in such manner as may be specified by the Director.

(5) The Minister may, in his discretion, grant a certificate of approval in respect of which an application has been made under subsection (4) either unconditionally or subject to such conditions as he thinks fit, but if, in relation to any application, the Minister is of the opinion that it would be undesirable in the public interest that a certificate of approval should be granted, he may refuse to grant a certificate and may give reasons for so refusing.

(6) Any person aggrieved by the refusal of the Minister to grant a certificate of approval or by the imposition of any condition on the grant of such certificate may, within thirty days after receipt of notification of the decision of the Minister or such longer period as the Governor may for good cause allow, appeal against that decision to the Governor and the decision of the Governor on

the appeal shall be final and the Minister shall act upon such decision accordingly.

(7) In the event that development permission is granted, any condition in a certificate of approval shall, without prejudice to any other condition that the Board may impose, be deemed to be for all the purposes of this Ordinance a condition subject to which the permission was granted.

Director may require further information

45. (1) If so required by the Director by written notice, an applicant for development permission shall—

- (a) furnish the Director, within such reasonable time as may be prescribed in the notice, with such further information relevant to the application as may be specified in the notice;
- (b) at his own expense, cause an environmental impact or economic feasibility study to be made of the proposed development by a suitably experienced person approved by the Director;
- (c) permit the Minister, or members of the Board, to enter upon and inspect the land to which the application relates:

Provided that if the applicant, at the time of the application does not have such interest in the land to which the application relates as would enable him to permit the Minister or members of the Board to enter upon the land, he shall use his best endeavours to obtain that permission.

(2) The Board may defer a decision on an application for development permission until it is satisfied on the matters in respect of which further information is or has been required under this section.

Consultation in relation to applications

46. (1) The Director shall consult with any public officer or other person who appears to him to be likely to provide information relevant to an application for development permission to enable the Director to advise the Minister or the Board, as appropriate, with regard to the application.

(2) Any public officer or other person such as is mentioned in subsection (1), or his representative, may be invited by the Board to attend and speak at any meeting called to consider the relevant application.

Matters for consideration by the Board

47. (1) In considering an application for development permission, the Board shall take into account such of the following matters as appear to it to be relevant, or as the Director may advise, in order to make a proper decision on the application, namely—

- (a) any development plan applicable to the area where the proposed development would take place;
- (b) any information, advice or study report provided by the applicant in response to a notice served on him under section 45;

- (c) the impact of the proposed development on the ecology of the island where it is to take place;
- (d) any representations made by any person with regard to the application or the probable effect of the proposed development;
- (e) the impact of the proposed development on the natural or built environment and on the uses of adjacent land;
- (f) where the proposal is for a commercial or industrial development—
 - (i) the quality and economy of the proposed layout and of its design;
 - (ii) traffic considerations;
 - (iii) the benefits likely to accrue to and the disadvantages that may be imposed on economic, social and welfare facilities, including prospects of employment and the effect on the infrastructure of the Islands, as a result of the proposed development;
- (g) the financial and other resources which are, or which will be, available to the applicant for the development permission;
- (h) the area of land required for the proposed development;
- (i) such other matters as the Director considers to be relevant to the determination of the particular application.

(2) Advice given to the Board by the Director, under subsection (1) shall be in the form of a report on each application, summarizing any relevant factors recommended to be taken into account in respect of that application and the suggested appropriate decision to be given on the application.

(3) The Board may, in addition to the matters set out in subsection (1), take into account any other material considerations notwithstanding that the Director has not advised the Minister or the Board on these matters.

(4) The Board shall not, by virtue of anything said in or following discussions or negotiations which may have taken place between any proposed developer and the Director or any person acting on his behalf as to any proposed or contemplated development, be bound to grant development permission in relation to any such development nor, if development permission is granted in respect of any such development, shall anything so said in any way preclude the Board from granting it subject to any conditions that the Board may consider proper.

(5) No claim to compensation or damages shall lie against any person in respect of, or arising out of, or in connection with, any refusal of permission for development in relation to which subsection (4) applies, nor shall any such claim lie in respect of, or arising out of or in connection with, the grant of any such permission subject to such conditions as the Minister or the Board considers proper.

Development Agreements

48. (1) The Board may, on the advice of the Director, and with the consent of the Governor, enter into an agreement with any person as to the nature, scope, timing or any other aspect of any proposed or contemplated development.

(2) Notwithstanding any other provision of this Ordinance, where an agreement to which subsection (1) relates, provides that the Board will grant an application for development permission subject to compliance with that agreement, then on receipt of an application complying with such provisions for development permission, the Board shall grant that permission and may not impose on such grant, conditions other than those (if any) contemplated by that agreement.

Decision of the Board on applications

49. (1) The Board may grant an application for development permission either unconditionally or subject to such conditions as it may require or may think fit to impose, or may refuse an application.

(2) Without prejudice to the generality of subsection (1), the conditions which the Board may impose when granting development permission are such as are likely to be for the advantage of any matter mentioned in section 47(1), and in addition may cover all or any of the following matters, namely—

- (a) the timing and phasing of a development;
- (b) arrangements for the disposal of sewage, effluent or trade waste from the development;
- (c) arrangements for the supply of water and the catchment and storage of rain water on the development;
- (d) landscaping;
- (e) the preservation of trees, vegetation and other natural products of the land where the development is to take place and on any other land contiguous to the development which is owned by, or under the control of, or likely to be under the control of, or used by, the developer or his agents or contractors for the purposes of, or in connection with, the development;
- (f) the reservation of any part of the area on which the development is to take place for roads, open space or other public or communal purpose reasonably incidental to the development;
- (g) the nature of the materials to be used in any construction or in-filling operations in the development;
- (h) controlling the processes of development, including the routing of any vehicles or vessels to be used for the purposes of or in connection with the development, and the tidying up of the land, and any adjacent land used for the purpose of or in connection with the development and the removal of materials and waste from such land when the development is completed;

- (i) the duration of the development and, if appropriate, the removal of any building or other structure and the restoration of the site or any part thereof at the end of the period for which the development is to be allowed;
- (j) the discontinuance of any existing uses of the land on which the development is authorised;
- (k) with respect to the implementing or not implementing of any prior grant of development permission in respect of the same land, or adjacent land owned by or under the control of the developer or his agents;
- (l) controlling or prohibiting the use on the land comprising the development of any advertisement including the size, shape, colour or location of any such advertisement;
- (m) arrangements for the accommodation of any persons engaged in the construction of the development or present in the Islands for the purpose of working on the development when completed;
- (n) the entering into a performance bond with the Crown to guarantee the implementation of any of the conditions subject to which the grant of development permission is made.

(3) A condition may be imposed under this section as to the use of any land which is contiguous to the land to which a grant of development permission relates, which is in the possession of or under the control of the developer, if it appears to the Board that it is expedient to impose such a condition for the purposes of or in connection with the development to which the grant of development permission relates.

(4) A condition may be imposed under this section requiring the developer to carry out any works or other development on land (including highways) in the ownership or under the control of the Crown, even if the effect of the imposition of such a condition would be to require the developer to carry out works or development at his own cost for the public benefit.

(5) No claim to compensation shall lie against the Government, the Governor, the Minister, the Board, or any other public officer in connection with or arising out of—

- (a) the refusal by the Board to grant development permission; or
- (b) the grant by the Board of development permission subject to conditions.

Lapse of development permission

50. (1) An outline development permission shall lapse and cease to have effect if no detailed development permission covering the same land has been applied for within one year of the grant of outline development permission, or such longer period as may be specified in the grant of outline development permission or as may be authorised by the Board in any particular case.

(2) A development permission other than outline development permission shall lapse and cease to have effect if the development to which it relates has not been completed within three years of the grant of detailed development permission, or such longer period as may be authorised by the Board in any particular case.

(3) Where detailed development permission provides for different parts of the development to commence at different times, this section shall apply to those separate parts of the development as if a grant of detailed development permission was made for each separate part or stage of the development.

(4) The Board may serve written notice on a person who has commenced, but has not completed, within the time (if any) prescribed therefor, the development for which he has obtained permission, requiring that person to complete the development within the time specified in such notice.

Development permission for limited period

51. A grant of development permission may provide that the development to which it relates shall only be permitted to continue for a limited period. In such case, the grantee or his successor in title may at the expiration of that period recommence the use of the land for the purpose for which it was used before the grant of permission for such limited period, if, and only if, that use, having regard to this Ordinance and of the repealed Ordinance, was a lawful use.

Supplementary provisions as to the effect of a grant of development permission

52. (1) Without prejudice to this Part as to the lapse or modification or revocation of any grant of development permission, such grant shall, except in so far as the grant otherwise provides, endure for the benefit of the land concerned and of all persons for the time being entitled to an interest in the land.

(2) Where a grant of development permission is made for the erection of a building, the grant may specify the purposes for which the building may be used, and if no purpose is so specified, the grant shall be construed as including permission for the use of the building for the purposes for which it is designed, and for no other purpose.

Minor variation of development permission

53. (1) The Director, acting on behalf of the Board, may approve a variation to a grant of development permission which in his opinion is a minor variation, and in such event the Director shall inform the Board of the action which he has taken in that particular case.

(2) Where the Director is requested to approve a variation under subsection (1) but is of the opinion that the variation proposed is not a minor one, he shall, in writing, inform the applicant for approval that his request must be submitted to the Board for approval of the variation.

Modification or revocation of development permission

54. (1) Subject to this section, if it appears to the Board, after consideration of such advice as may be given by the Director, that it is desirable that any grant of development permission ought to be modified or revoked, the Board may, by written notice to the person entitled to the benefit of the permission, revoke or modify the development permission to such extent as it considers desirable.

(2) The power conferred on the Board by this section may be exercised—

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

(3) The modification or revocation of a grant of development permission for the carrying out of building or other physical operations shall not affect so much of the operations as has been previously carried out.

(4) A notice for the modification or revocation of a grant of development permission under this section shall include—

- (a) a statement of the reasons for the modification or revocation;
- (b) such directions as the Board shall consider necessary for the bringing to an end of any development to which the notice relates;
- (c) information as to any right to compensation that may arise in consequence of the modification or revocation, and the procedure for making any claim for compensation;
- (d) such other matters (if any) as may be prescribed.

(5) Upon the service of a notice under subsection (1), to the extent to which the modification or revocation so requires, the grant of development permission concerned shall cease to be valid or to have effect, and any further development or work carried out contrary to such notice shall be unauthorised development:

Provided that the Board, after considering any representations made in respect of such notice, may at any time cancel or withdraw such notice.

(6) An appeal shall lie, under section 97, against the issue of a notice by the Board under subsection (1), or against the refusal of the Board to cancel or withdraw such notice under the proviso to subsection (5); and pending the determination of any such appeal the notice concerned shall be deemed to be suspended in its operation, save that any further development or work carried out shall be unauthorised development.

(7) For the purposes of this section the modification of a grant of development permission shall include the imposition of conditions, or additional conditions, and the alteration of a grant of development permission.

Reference of applications for a grant of development permission to the Governor

55. (1) The Governor may direct the Board to refer to him (or to the Minister)—

- (a) all applications for development permission in relation to a particular type or class of development;
- (b) all applications for development permission in relation to any locality in the Islands designated by the Governor;
- (c) all applications for development permission in relation to a particular type or class of development in a locality in the Islands, designated by the Governor;
- (d) any other application for development permission. (*Amended by Ord. 9 of 2008*)

(2) The Board shall—

- (a) refer to the Governor or the Minister (as applicable) for his decision any application for development permission to which a direction made under subsection (1) relates;
- (b) refer to the Governor for his decision any application for development permission to which section 4 of the National Parks Ordinance relates.

Developments by Government

56. (1) In a case where any development by the Government, or by any statutory authority or body is proposed, the procedure shall be similar to that provided by this Part for any other application for development permission, save that the Board shall not give a decision, as provided in section 49, but shall consider the proposal and make recommendations to the Minister as to whether the proposal should be approved, with or without conditions, modified or rejected.

(2) The Minister shall forward to the Governor the recommendations of the Board, submitted under subsection (1), together with any report on the proposal prepared by the Director and his own observations on the matter.

(3) The Governor, upon consideration of a proposal referred to him under this section, shall have powers similar to those of the Board acting under section 36 and shall determine the matter accordingly; and no appeal shall lie against a decision given by the Governor under this section.

Governor may revoke or modify grants of development permission

57. (1) Subject to this section, the Governor may, by Government Notice, modify or revoke any grant of development permission.

(2) Sections 54(2), (3), (4) and (5) shall apply in the case of the exercise of the power conferred by subsection (1) as if references to the Governor were substituted for references to the Board and no appeal shall lie from a decision of

the Governor given under this section, but subject to Part X any person whose interest is affected thereby may be entitled to claim compensation.

Enforcement notices

58. (1) If it appears to the Director that any development of land, other than a change of use, has been carried out without the grant of development permission required under this Part, or in contravention of a notice of modification or revocation served in respect of that development, or that any conditions, subject to which a grant of development permission was granted, have not been complied with, the Director may, with the consent of the Minister, within six years of such unauthorised development or contravention taking place, if he considers it expedient so to do having regard to any development plan applicable to the area where the unauthorised development has taken place, and the factors set out in section 60(1), issue an enforcement notice under this section, and serve a copy of that enforcement notice on the owner and occupier of the land.

(2) Where the development alleged to have taken place is a change of use of land, there shall be no time limit restricting the issue of a notice under subsection (1), and in all other respects subsection (1) shall apply.

(3) The consent of the Minister referred to in subsection (1) may be given either in respect of a class or classes of enforcement notices or of a particular enforcement notice and such consent shall be stated in that enforcement notice.

(4) An enforcement notice shall state clearly—

- (a) the unauthorised development to which it relates;
- (b) the person or persons to whom it is addressed;
- (c) the time at which it comes into effect;
- (d) the steps which must be taken to rectify the alleged unauthorised development and the time, being not less than two months within which they must be taken;
- (e) the powers of the Board, in case of default in compliance with the notice, to enter upon the land and undertake the steps specified in paragraph (d);
- (f) the penalties which may be incurred if the steps specified in paragraph (d) are not undertaken;
- (g) the right of the owner and occupier of the land or building the subject of the enforcement notice to request a reconsideration of, or to appeal against the enforcement notice.

(5) If, within the period mentioned in subsection (4)(d), an application is made to the Board for the reconsideration or withdrawal of an enforcement notice or for permission—

- (a) for the retention on the land of any buildings or works to which the enforcement notice relates; or
- (b) for the continuance of any use of the land to which the enforcement notice relates, the operation of the enforcement

notice shall be suspended pending the final determination of the application and if the permission applied for is granted on that application, the enforcement notice shall not take effect.

(6) When, within the period mentioned in subsection (4)(d), notice of an appeal is given under section 66 by a person on whom the enforcement notice was served, the operation of the enforcement notice shall be suspended pending the determination or withdrawal of the appeal.

(7) The Director, with the approval of the Minister, may withdraw or modify an enforcement notice, and this section shall apply to any modification of an enforcement notice made under this section as they apply to the enforcement notice.

(8) The Director shall inform the Minister and the Board at the earliest opportunity of any action taken under this section.

Reconsideration of enforcement notices

59. (1) At any time within twenty-eight days of the service of an enforcement notice, the person upon whom such notice has been served may, upon giving reasons in writing, request that the matter to which the notice relates be referred to the Board for reconsideration, and the Director shall arrange accordingly and shall inform the Minister of the action taken.

(2) The Board shall, within two months of the receipt of a request made under subsection (1), reconsider the enforcement notice and may confirm the notice, with or without modification, or may withdraw the notice. The Director shall forthwith in writing communicate to the person who made the request for reconsideration, and to any other person on whom the notice was served, the decision of the Board on the matter.

(3) For the purposes of the hearing of an application made under this section, the Board may permit the person making the request to appear in person or by his legal or other representative before the Board or to make representations in writing.

(4) Any modification of the terms of an enforcement notice which is reconsidered under this section shall not require any person on whom the notice was served to undertake more work or incur more expense than was required by the notice before it was modified.

Considerations with respect to issue of enforcement notices

60. (1) In considering, or re-considering, whether or not an enforcement notice shall be served or confirmed the Minister, or the Director or the Board as the case may be, shall take into account such of the following matters as may be relevant in the circumstances of the particular case, namely—

- (a) any development plan applicable to the area or island concerned where the unauthorised development is alleged to have taken place;
- (b) the nature and extent of the unauthorised development;

- (c) the harm to the natural or built environment and the degree of nuisance caused to owners or occupiers of adjacent property or of other proposed development;
- (d) the length of time the unauthorised development has existed;
- (e) the expense likely to be involved in compliance with the notice by the person who may be, or has been, served with the notice and his capacity to meet that expense;
- (f) the benefits (if any) resulting from the unauthorised development;
- (g) any possible alternative measures which could be taken to rectify or regularize the unauthorised development;
- (h) whether it is necessary, desirable and convenient having regard to the public interest to serve or confirm an enforcement notice;
- (i) any other material considerations.

(2) Any members of the Board, authorised by the Board, or the Director or any person acting on his instructions, may inspect any development to determine whether, and if so to what extent, that development is unauthorised and the Board may take into account the evidence obtained from such inspection in any decision on whether or not to confirm an enforcement notice. In the case of any such inspection such prior notice of the time and date of the proposed inspection as is considered by the Director to be reasonable shall be given to the person upon whom the enforcement notice has been served.

(3) The Director shall obtain, so far as appears to him to be possible, any technical, professional or scientific advice which he considers to be necessary for a satisfactory decision to be made on any matter relating to an enforcement notice, and shall place a summary of any such advice, together with his own recommendation, before the Board when it is considering a request made under section 47.

Scope and effect of enforcement notices

61. (1) The steps which the Board may require to be taken by a person on whom an enforcement notice has been served, to rectify the unauthorised development to which the enforcement notice relates, may be all or any of the following namely—

- (a) to demolish or remove a building in whole or in part;
- (b) to erect, re-erect or alter a building in whole or in part;
- (c) to restore land as near as may be to the appearance and state that it had before the unauthorised development took place including planting or replanting of trees and other vegetation;
- (d) to remove any advertisement or to display it in the place permitted by a grant of development permission;
- (e) to discontinue any use of land or buildings;

- (f) to carry out any building or other operations on the land to which the notice relates;
- (g) to comply with any limitation or condition in a grant of development permission;
- (h) to do or to refrain from doing or to take or to refrain from taking any actions similar to those listed in paragraphs (a) to (g) which would assist in the ending of the unauthorised development.

(2) Where a person on whom an enforcement notice has been served fails or refuses to take the action required by the enforcement notice to rectify the unauthorised development, the Board may authorise the Director to enter the land with such assistants as may be necessary, and to take all such necessary action in respect of the unauthorised development to enforce the notice as it may see fit.

(3) When the Board has exercised any power under subsection (2), it may recover as a civil debt, from the person upon whom the notice has been served, those expenses reasonably incurred by it in the exercise of such power, and if that person, having been entitled to appeal under section 66, has failed to make such an appeal he shall not be entitled in any proceedings to dispute the validity of the action taken by the Board or the Director upon any ground that could have been entertained on such an appeal.

Stop Notice

62. (1) Where an enforcement notice was issued pursuant to section 58, in respect of any development of land, the Director with the approval of the Minister may, at any time before the enforcement notice takes effect serve a stop notice.

(2) A stop notice served under subsection (1) shall—

- (a) have annexed to it, a copy of the enforcement notice;
- (b) prohibit any person on whom the stop notice is served from carrying out or continuing any specified operations on the land, being operations either alleged in the enforcement notice to constitute a breach of development permission or so closely associated with the breach to constitute substantially the same operations; and
- (c) direct the person who was served with the stop notice to immediately cease from the activities prohibited.

(3) The operations which may be the subject of a stop notice shall include the deposit of refuse or waste materials on land or causing environmental damage or actions affecting the health or safety of persons where such action is a breach of development permission alleged in the enforcement notice.

(4) A stop notice may be served by the Director on any person who appears to the Director to have an interest in the land or to be concerned with the carrying out or the continuance of any operations on the land.

(5) A stop notice shall—

- (a) take effect from the date of its service; and
- (b) without prejudice to subsection (8) cease to have effect when—
 - (i) the enforcement notice to which it relates is withdrawn or quashed; and
 - (ii) notice of the withdrawal of the stop notice is served under subsection (7).

(6) If a person on whom a stop notice is served carries out, or causes or permits to be carried out any operations prohibited by the stop notice, the person commits an offence and is liable on summary conviction to a fine of \$10,000 and if the offence is continued after conviction, the person is liable to a further fine of \$1,000 for each day on which the offence continues.

(7) The Director with the approval of the Minister may at any time withdraw a stop notice (without prejudice to their power to serve another) by serving notice to that effect on the person on whom the stop notice was served and the stop notice shall cease to have effect as from the date of withdrawal.

(8) A stop notice shall not be invalid by reason that the enforcement notice to which it relates was not served as required by section 58 if it is shown that the Director took all steps as were reasonably practicable to effect proper service.

(9) It is declared that—

- (a) the Director need not provide any person with an opportunity to make representation prior to the making of a stop notice;
- (b) there shall be no right of appeal to the Tribunal against the making of a stop notice;
- (c) an appeal against the enforcement notice to which it relates shall not suspend the operation of a stop notice;
- (d) a person on whom a stop notice is served may appeal to the Supreme Court against the making of the stop notice within twenty-eight days of the service of the stop notice and the Supreme Court may confirm the stop notice with or without modification, or quash it in whole or in part;
- (e) the making of an appeal referred to in paragraph (d) shall not suspend the operation of a stop notice, and the stop notice shall remain in full force and effect pending the determination of the appeal; and
- (f) no compensation shall be payable in respect of the prohibition in a stop notice of any activity which at any time when the stop notice is in force, constitutes, or contributes to, a breach of development permission.

(10) Where a person fails to comply with a stop notice made under this section, sections 61(2) and (3) apply with the necessary modifications.

(Inserted by Ord. 2 of 2018)

Injunctions

63. (1) In addition to any other remedy provided by this Ordinance, the Board may in any case it thinks fit, direct the Director to institute a civil action for an injunction—

- (a) to prevent any person from violating this Ordinance;
- (b) to enforce an enforcement notice or stop notice;
- (c) to prevent a person from—
 - (i) unlawful dredging of watercourses or channels;
 - (ii) unlawful excavation and mining;
 - (iii) unlawful site clearance; or
 - (iv) unlawful construction of buildings and structures;
- (d) to prevent a person from occupying a building who has not acquired a certificate of occupancy;
- (e) to prevent a person from occupying a dilapidated building which the Director determines is unsafe and is to be demolished; or
- (f) to prevent a person from continuing to erect unauthorised structures for which they have received an enforcement notice.

(2) Any civil action for an injunction by the Director under this section, shall be instituted on the advice of the Attorney General.

(3) The Supreme Court may, in addition to any injunction which may be imposed, make such order as the circumstances may require.

(4) An order made under subsection (3) shall state the time, not being less than fourteen days, within which there shall be compliance with the order.

(5) Where a person fails to comply with an order made under subsection (3), sections 61(2) and (3) apply with the necessary modifications.

(Inserted by Ord. 2 of 2018)

Protection of prospective purchasers with respect to unauthorised development

64. Where a prospective purchaser of any land serves notice on the Director that—

- (a) he intends purchasing land described in the notice; and
- (b) he is unaware of any development having been carried out on that land without the grant of permission in that behalf, then, unless the Director, within forty-two days of the receipt of such notice, notifies such prospective purchaser of any development which has been carried out on the land without permission granted in

that behalf, all development thereon at the time of the receipt of such notice by the Director shall, for the purposes of any enforcement notice thereafter issued, be deemed to have been permitted by the Board.

Continuing operation of enforcement notices

65. (1) Compliance with the requirements of an enforcement notice shall not discharge the enforcement notice.

(2) Without restricting the generality of subsection (1), where any development is carried out by way of reinstating or restoring buildings or works that have been demolished or altered in compliance with an enforcement notice, the enforcement notice shall, notwithstanding that its terms are no longer wholly apt for the purpose, be deemed to apply in relation to any building or works so reinstated or restored as it applied in relation to such building or works before they were demolished or altered, and section 61(2) and (3) apply accordingly.

Appeal against enforcement notices

66. (1) If any person on whom an enforcement notice is served and, after reconsideration, confirmed by the Board, is aggrieved by the enforcement notice, he may at any time within twenty-eight days of the decision of the Board appeal against the enforcement notice under section 97 and on any such appeal the Physical Planning Appeal Tribunal —

- (a) if satisfied that permission was granted under this Part for the development to which the enforcement notice relates, or that no such permission was required in respect thereof, or, as the case may be, that the conditions subject to which such permission was granted have been complied with, shall quash the enforcement notice to which the appeal relates;
- (b) if satisfied that a variation of the enforcement notice would be appropriate, may vary the enforcement notice accordingly;
- (c) in any other case shall dismiss the appeal and may make such order as to costs as it thinks just.

(2) Where the enforcement notice is varied or the appeal is dismissed, the Tribunal may, if it thinks fit, direct that the enforcement notice shall not come into force until such date, not being later than twenty-eight days from the determination of the appeal, as the Tribunal thinks fit. (*Amended by Ord. 23 of 2010*)

Notice to apply for development permission

67. (1) The Director may, in any case in which he considers that unauthorised development has taken place, by written notice served on the owner and the occupier of the property concerned, require that an application shall be submitted for development permission and in such case the Director shall refrain from issuing an enforcement notice if such application for development permission is submitted within twenty-eight days of the service of such notice or such extended period as may be agreed.

(2) Where the Board approves a grant of development permission in respect of an application made in conformity with a notice served under subsection (1), the Board may authorise the grant of permission with retrospective effect to the date when the development commenced, or such other date as the Board considers to be appropriate in the particular case.

(3) On the recommendation of the Director, made in respect of an unauthorised development which the Director considers is of a minor nature, the Board may issue a grant of development permission without first requiring a formal application from the person concerned with the unauthorised development.

Public officers: prohibition against doing certain business

68. (1) A public officer commits an offence if, in expectation of any fee or reward payable to him or any relative of his, he applies on behalf of, or assists any person applying for development permission or any other consent by drawing or assisting in the drawing of plans or preparing any document or particulars which he knows or has reason to suspect will or may be used in connection with an application to the Board, or to the Director, unless he does so in the course of his duties as a public officer and otherwise than in expectation of any fee or reward from the applicant or with the approval of the Director.

(2) A person convicted of an offence against subsection (1) is liable on conviction to a fine of \$10,000 and to imprisonment for a term of two years.

(3) For the purposes of subsection (1), where it is proved that a public officer assisted an applicant by the drawing of plans or preparing any document or particulars and subject to the exceptions therein, it shall be presumed that he did so in expectation of a fee or reward payable to him or a relative of his unless he proves to the contrary.

(4) In this section “relative” has the same meaning as it has under section 9(2).

PART VII

SUPPLEMENTARY PROVISIONS FOR CONTROL OF DEVELOPMENT

Building preservation orders

69. (1) The Director may, and if so directed by the Minister or the Board shall, cause a survey of the buildings in any area of the Islands to be made with a view to determining if, having regard to the importance of preserving the landscape, architectural, cultural and historical heritage of the Islands, any such building or part thereof or group of buildings or area of architectural interest ought to be made the subject of a building preservation order, as hereinafter provided.

(2) For the purposes of this Part an area of architectural interest shall be an area within which, in the opinion of the Director, after consultation with the Director of National Heritage, the various buildings and other structures provide a harmonious unit which contributes towards the landscape, architectural,

cultural and historic heritage of the Islands, the boundaries of which shall be shown on a plan attached to the draft building preservation order seeking to establish such an area.

(3) The Director, either upon receipt of a report under subsection (1), or of his own initiative in any other case, where he considers it desirable that a building preservation order should be made, shall prepare a report for submission to the Board, together with a draft building preservation order as appears to him to be required in the circumstances.

(4) The Board, within thirty days of the receipt of any report and a draft order under subsection (3), shall consider the matter and recommend to the Minister whether or not the draft building preservation order should be confirmed.

(5) Where the Board recommends that the draft building preservation order should be confirmed, a copy of the draft order shall be—

- (a) served on the owner and occupier of the building or group of buildings concerned; and
- (b) affixed in a prominent place on each building to which the order would apply if confirmed.

(6) Within twenty-eight days of the service of a draft building preservation order, or the affixing of a copy of the draft order, under subsection (5), any person may make representations in writing to the Minister in regard to the proposed building preservation order.

(7) The Minister shall consider the recommendation of the Board made under subsection (4) and any representations made to him under subsection (6) and may confirm the draft order, with or without modifications or may reject the draft order:

Provided that where any building to which the draft order relates is the property of the Crown, the Minister instead of making a decision on the matter, shall submit the draft order to the Governor, with the recommendation of the Board and his own recommendation, and the Governor may confirm the draft order, with or without modifications, or may reject the draft order.

(8) A draft building preservation order which has been recommended by the Board, shall lapse and cease to have any effect unless it is confirmed by the Minister or by the Governor, as the case may be, within six weeks of the date when it was recommended by the Board.

(9) Subject to subsection (8), pending the decision on a draft building preservation order, the draft thereof shall be deemed to have effect as an interim building preservation order, as if made under section 70, with effect from the date of service of the draft order, or the affixing of a copy thereof, under subsection (5), whichever is the earlier.

(10) No person shall develop, demolish or engage in any building operations, other than essential repairs, or attempt to do so, in respect of any building which is the subject of a building preservation order without first obtaining a grant of development permission from the Board.

(11) In considering whether to grant, with or without conditions, or to refuse, an application for development permission in respect of a building which is the subject of a building preservation order in addition to any other matters which, under this Ordinance, it is required to take into account, the Board shall have regard to the matters mentioned in subsection (1) as considerations for the making of such an order.

(12) Notice of the making of a building preservation order shall be published in the *Gazette*.

(13) For the purposes of this section and section 70, a group of buildings may be made the subject of a building preservation order if by reason of their proximity and relationship to each other it is considered desirable that the whole group should be preserved.

Interim building preservation orders

70. (1) The Director may, in any case in which he considers that the urgency of the matter and the significance of the building or buildings warrants such action, after consultation with the Director of National Heritage, if practicable, make an interim building preservation order in respect of any building or group of buildings.

(2) The Director shall cause a copy of an interim building preservation order to be served on every owner or occupier of the building or group of buildings in respect of which it has been made and affixed in a prominent place on each building to which the order applies.

(3) As soon as possible after the making thereof, the Director shall lay before the Board a copy of the interim order, together with a report giving the reasons for the action which he has taken. The Board, upon consideration of the interim order and the report of the Director, shall, within fourteen days of the receipt thereof, forward the same to the Minister with a recommendation as to whether or not the interim order should be confirmed.

(4) The Minister shall consider the interim order and the recommendation of the Board made under subsection (3) and may confirm the interim order, with or without modification or may reject the interim order:

Provided that if an interim order relates to a building which is the property of the Crown, the Minister, instead of making a decision, shall refer the matter to the Governor with the recommendation of the Board and his own recommendation and the Governor may confirm the interim order, with or without modification, or may reject the order.

(5) An interim order which is not confirmed by the Minister or the Governor, as the case may be, within six weeks of being recommended by the Board shall lapse and cease to have effect.

(6) Sections 69(9) and (10) shall apply to an interim building preservation order as they apply to a building preservation order.

Plant preservation orders

71. (1) A plant preservation order may be made in respect of any plant or group or species of plants, the preservation of which is, in the opinion of the Minister, desirable for amenity, environmental, landscape, scientific or similar reasons.

(2) Section 69 shall apply with such modifications as the circumstances require to the making of a plant preservation order as it applies to the making of a building preservation order.

(3) In any case in which the Director is satisfied that the making of a plant preservation order is a matter of urgency and that the circumstances justify such action, he may make an interim plant preservation order, and section 70 shall apply with such modifications as the circumstances require to an interim plant preservation order as it applies in the case of an interim building preservation order.

Notices requiring discontinuance of use or alteration or removal of buildings or works

72. (1) If it appears to the Board that it is expedient in the interests of the proper planning of the Islands (including the interests of amenity), regard being had to a development plan and to any other material consideration—

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

the Board may with the consent of the Minister, by notice require the discontinuance of that use, or impose such conditions as may be specified in the notice on the continuance thereof, or require such steps as may be so specified to be taken for the alteration or removal of the buildings or works, as the case may be.

(2) Sections 58(4), (5), (6), (7) and (8), sections 59 to 61 and 64 to 66, inclusive, shall apply to a notice served under subsection (1) and in like manner to an enforcement notice served under section 58, save that—

- (a) references to an enforcement notice in those provisions shall have effect as if they were references to a notice served under subsection (1);
- (b) references to unauthorised development shall have effect as if they were references to the use of land or the buildings or works specified in the notice served under subsection (1);
- (c) where a claim for compensation has been submitted under section 90, section 61(3) (recovery of expenses incurred by the Board in enforcing a notice, on non-compliance by the recipient of the notice) shall be exercisable only by way of counter-claim, to be offset against the said claim for compensation;
- (d) section 66(1)(a) shall not apply;

- (e) references to “rectify” and “rectify or regularise” unauthorised development shall have effect as if they were references to the carrying out of the acts and works required under the notice served under subsection (1),

and, notwithstanding the adoption of the said provisions for the purposes of this section, it shall not be imputed that work previously carried out under a valid development permission shall be retrospectively deemed unauthorised.

Amenity orders

73. (1) In any case in which the Director considers that land is—

- (a) unsightly and injurious to the amenities of the area, and visible to persons using a public highway or any other area to which the public have a right of access; or
- (b) likely to be or is offensive to persons residing in the immediate neighbourhood of such land, by reason of any waste, rubbish, derelict or abandoned machinery or articles or materials of whatsoever kind, or the dilapidated state of any structure or building thereon,

the Director may prepare and submit to the Board a draft amenity order.

(2) An amenity order shall specify clearly—

- (a) the land to which it applies, and the owner or occupier thereof;
- (b) if any matter is required to be cleared, that matter;
- (c) if screening is required to be carried out, the requirements to effect the screening; and
- (d) the time, not being less than twenty-eight days from the date of service of the order upon the owner or occupier, for compliance with the order,

and in the case of an order requiring clearance the order shall specify the matter which must be destroyed, if appropriate, or the place, being an authorised place for the disposal of rubbish, to which it must be removed. In the case of a building, the order shall specify the manner in which the building is required to be repaired, painted or demolished, in whole or in part.

(3) Where the Director is aware that the occupier of land to which an amenity order is made is not the owner, the order shall specify what action is required to be taken by the occupier and what action by the owner.

(4) A draft amenity order prepared by the Director under subsection (1) shall be submitted to the Board, together with a statement by the Director in support of the proposed action. The Board, if it recommends the making of the draft order, shall forward it to the Minister together with its recommendation.

(5) The Minister may approve or reject the draft order. Where the order is approved by the Minister, copies shall be served on the occupier or owner of the land concerned, or if no such person can be found, may be served by affixing a copy of the order in a conspicuous place on the land concerned:

Provided that where the land to which such an order would apply is the property of the Crown, the Minister shall not approve or reject the draft order, but shall refer the matter to the Governor, with his own recommendation, and the Governor shall confirm, amend or reject the draft order as the circumstances of the case appear to him to require.

(6) If any person upon whom an amenity order is served fails to comply with the requirements of the order within such time as is specified in that order, or any extension thereof approved by the Director, the Director may arrange for the work to be carried out at the expense of the person who is in default, and may recover the cost of so doing as a civil debt from the person in default.

Appeal against amenity orders

74. (1) Any person upon whom an amenity order has been served under section 73 may appeal, under section 97, against the making or terms of such order.

(2) An appeal made under subsection (1) may be on any of the following grounds—

- (a) the person upon whom an order has been served is not an owner or occupier of the land to which the order applies;
- (b) the person upon whom the notice has been served has no control over and no authority to remove, destroy or demolish any matter or building referred to in the order;
- (c) the time within which the order must be complied with is not reasonably sufficient for the purpose;
- (d) the work specified in the order is unreasonable in character or extent or is unnecessary;
- (e) that having regard to the character and condition of land and buildings in the immediate neighbourhood and visible to persons using any public highway, the order is unreasonable or discriminatory;
- (f) section 73 was not in a material particular complied with;
- (g) on a point of law,

and no other grounds shall be admitted.

(3) The Minister, upon the hearing of an appeal under this section may confirm, with or without modification, or may quash, in whole or in part, the order against which the appeal is made.

(4) Where an appeal is made under this section, the operation of the order which is the subject of the appeal shall be suspended pending the determination of the appeal.

Public access for recreational purposes

75. (1) Where it appears to the Governor that it is desirable that members of the public should have access to any land for open air recreation and perambulation on such land, he may—

- (a) where the land is unoccupied Crown land, declare by notice in the *Gazette* that the public shall have access to such land on such terms and conditions as may be specified in such notice;
- (b) in any other case, negotiate an agreement for such access with the owner or tenant thereof, on such terms as may be agreed;
- (c) in any case in which he is unable to obtain the agreement of the owner or tenant for such access, the Governor may confer a public right of access by notice in the *Gazette*, on such terms as may be specified in such notice, but in such case the owner or tenant of the land shall be entitled to receive compensation from the Government for the diminution, if any, in the value of his interest in the land by reason of such right of access by members of the public.

(2) If agreement cannot be reached in such a case as is mentioned in subsection (1)(c), as to whether or not any compensation is payable or as to the amount thereof, the matter shall be referred to arbitration under the Arbitration Ordinance.

(3) The Governor may at any time alter or amend the terms on which members of the public have access to any land under this section:

Provided that where such access has been authorised with the agreement of the owner or tenant, alteration of such terms shall only be authorised with the agreement of the owner or tenant.

PART VIII

CONSERVATION OF NATURAL ENVIRONMENT

Protection of natural resources

76. (1) In any case in which the Governor, after such enquiries as he considers appropriate in the circumstances, is of the opinion that, in respect of any particular area of the Islands, on account of—

- (a) the natural beauty of the area; or
- (b) the flora, fauna, ecological, geological, hydrogeological or physiographical features of that area; or
- (c) the desirability of providing, under suitable conditions and control, special opportunities for the study of or research into the terrestrial or marine environment of that area,

it is desirable to afford special protection development for that area, he may by order declare that area to be a conservation area. Such an order may with the

approval of the Cabinet be expressed to include beaches and adjacent coastal waters. (*Amended by Ord. 9 of 2008*)

(2) An order made under subsection (1) may—

- (a) designate any part of a conservation area as being an area in which, subject to the grant of development permission, only certain developments or classes of development may be permitted;
- (b) authorise the carrying out in the conservation area of such works and the doing on the land of such other things as may be expedient for the protection of the area as a conservation area;
- (c) restrict or prohibit the entry into the area of any person or the movement of, or any activity carried out by, any person in the area;
- (d) prohibit any development within the area or any part thereof.

Provisions with respect to land in conservation areas

77. In any case in which private land is included in an area which has been declared to be a conservation area, and in which the Governor does not acquire the land under the Land Acquisition Ordinance, any person holding any interest in such land shall be entitled to receive compensation from the Government for the diminution, if any, of the value of his interest consequential upon any restriction imposed on his use or interest in the land by reason of such declaration. If agreement cannot be reached between the Government and the party concerned as to whether or not any compensation is payable, or as to the amount thereof, the matter shall be referred to arbitration under the Arbitration Ordinance.

Commercial or industrial development in conservation areas

78. (1) Any person who proposes to submit an application for the grant of development permission for a commercial or industrial development in respect of land situated in a conservation area shall, prior to submission of such application, have prepared at his own expense an environmental impact statement on the proposed development and its likely effect on the conservation area concerned; and the impact statement shall be prepared by a person approved by the Director who, before giving his approval, shall satisfy himself that the person concerned has appropriate competence, integrity and experience. A copy of the impact statement when completed shall be sent to the Director by the applicant for development permission either before or at the same time as the application is submitted.

(2) No application for a grant of development permission for a commercial or industrial development in a conservation area shall be considered until not less than twenty-eight days have expired after the relevant impact statement has been delivered to the Director in conformity with subsection (1).

(3) The Director shall prepare a report on any application for development permission for commercial or industrial purposes in respect of land

in a conservation area, and such report shall take into account the impact statement prepared in respect of the proposed development and shall be appended to the application when it is sent to the Board.

Particular matters for inclusion in an impact statement

79. Prior to the preparation of an impact statement required under section 78, the Director, by written notice to the person responsible for the preparation of the impact statement may set out—

- (a) particular matters which are to be investigated and reported on in the impact statement, and the degree of detail required;
- (b) the principles and guidelines of conservation by which the application for development permission is likely to be judged;
- (c) the special nature or features of the conservation area concerned, or the part thereof where the proposed development would take place, which will especially need to be preserved or maintained;
- (d) any other matters which the Director considers to be particularly relevant in the circumstances of the case.

Determination of applications for commercial or industrial development permission

80. Subject to this Part, the procedure to be followed with respect to an application for development permission for commercial or industrial development in respect of land situated in a conservation area shall be the same as that applicable in the case of an application in respect of any other type of proposed development save that the Board shall only make a recommendation on the application to the Minister; and the Minister shall forward such recommendation with his own comments to the Governor who may approve the application, with or without any amendment, or may reject the application. No appeal shall lie from a decision given by the Governor under this section.

PART IX

BUILDING REGULATIONS

Application of building control

81. Subject to this Part no person shall commence the construction of a building without first obtaining a building permit in respect of that building.

Building regulations to be made

82. (1) The Governor may make regulations as to the following matters—

- (a) as to new buildings—
 - (i) the preparation and foundations of the site;
 - (ii) the method of construction, structural strength and stability;

- (iii) the materials, including materials of short life and their preservation from decay and infestation;
 - (iv) the space about buildings;
 - (v) the insulation, lighting and ventilation of rooms;
 - (vi) the dimensions of rooms and spaces;
 - (vii) planning standards;
 - (viii) fire precautions and safety;
 - (ix) plumbing and water supply;
 - (x) sanitation;
 - (xi) electrical installations and wiring, gas installations and piping, and telecommunications services;
 - (xii) lifts and other mechanical means of conveyance for access;
 - (xiii) refuse disposal and emission of noxious or offensive substances;
 - (xiv) hurricane and earthquake precautions and protection;
 - (xv) means of access to and egress from buildings;
 - (xvi) low cost housing;
 - (xvii) the use of buildings or parts of buildings;
 - (xviii) matters connected with, or ancillary to, any of the foregoing matters;
- (b) as to existing buildings—
- (i) structural alterations or extensions to buildings, and buildings so far as affected by alterations or extensions;
 - (ii) in cases where there is any material change, within the meaning of this section, to the purposes for which a building, or as the case may be, a part of a building is used,

and, so far as they relate to the matters mentioned in this paragraph, regulations made under paragraph (a), may be made to apply to buildings erected before the date on which the building regulations came into force; and

- (c) generally, for carrying the purposes or provisions of this Part of the Ordinance into effect.

(2) For the purposes of this section, there shall be deemed to be a material change in the purposes for which a building or part of a building is used if—

- (a) a building, or a part of a building being a building or part which was not originally constructed for occupation as a house, or which though so constructed has been appropriated to other purposes, becomes used as a house;

- (b) a building or part of a building, being a building or part which was originally constructed for occupation as a house by one family only, becomes occupied as separate establishments by two or more families; or
 - (c) where building regulations contain special provisions with respect to buildings used for any particular purpose, a building or part of a building not previously used for that purpose, becomes so used.
- (3) Building regulations may—
 - (a) exempt any building, part of a building or class of building from any of the requirements of the regulations;
 - (b) provide for different regulations to apply to different buildings, parts of buildings or classes of buildings;
 - (c) provide for the imposition of or impose conditions on any permit to construct a building.
- (4) Except in so far as the building regulations provide otherwise, the requirements of the building regulations shall apply in relation to work carried out or proposed to be carried out by or on behalf of the Government.
- (5) Regulations made under this section may include provisions as to—
 - (a) the depositing of plans, sections, specifications and written particulars;
 - (b) the giving of notices and certificates, the inspection of work, (including the power to require the uncovering of work which has been covered prior to inspection), the testing of drains and sewers, and the taking by the Board or a building inspector of samples of materials to be used in the construction of buildings or in the execution of other works; and
 - (c) the prescribing and payment of fees.
- (6) Regulations made under this section are in this Ordinance referred to as “building regulations”.
- (7) The Governor may adopt as law of the Islands the whole or any part of any law or subsidiary legislation of any jurisdiction appearing to him to have been made for a similar purpose to that for which building regulations may be made under this section, subject to such modifications as he considers necessary or expedient.

Appointment of building inspectors

83. It shall be a function of the Director to enforce building regulations and the Governor shall appoint such persons, as building inspectors, to assist the Director in the performance of such function. (*Amended by Ord. 9 of 2008*)

Passing and rejection of plans

84. (1) Where plans of any proposed work are, in accordance with building regulations, deposited with the Director, the Director shall pass the plans, unless—

- (a) they are defective;
- (b) they contravene any provision of the building regulations; or
- (c) there is a failure to comply with this Part,

when he shall refer those plans to the Board together with his advice thereon.

(2) If the Director on referring plans in accordance with subsection (1) considers that the operation of any requirement contained in building regulations would be unreasonable in relation to that particular case, he may recommend that the Board relax or dispense with that requirement.

(3) Building regulations may provide, as regards any requirement contained in the regulations, that subsection (2) shall not apply.

(4) On receipt of any plans on a referral by the Director under subsection (1), the Board may reject those plans, or pass them subject to either or both of the conditions set out in subsection (5); and if the Board is advised by the Director in the manner indicated by subsection (2), it may relax or dispense with the requirements of building regulations mentioned in that recommendation and pass those plans.

(5) The conditions mentioned in subsection (4) are—

- (a) that such modifications as the Board may specify shall be made in the deposited plans; and
- (b) that such further plans as they may specify shall be deposited,

to bring the plans into conformity with building regulations.

(6) A person by whom, or on whose behalf, plans have been deposited shall, within sixty days or such extended time as may at any time be agreed by him, be notified by the Director whether those plans are passed or rejected.

(7) A notice of rejection of plans shall state the defects on account of which, or the building regulation or section of this Ordinance for non-conformity with which, or under the authority of which, the plans have been rejected.

(8) A notice that plans have been passed shall—

- (a) if the plans have been passed by the Board in exercise of any power to relax or dispense with any requirements of building regulations, or this Part, state the requirements of the building regulations or this Part, relaxed or dispensed with; and
- (b) in any case state that the notice of approval operates as an approval thereof only for the purposes of the requirements of building regulations and this Part, and does not constitute development permission.

(9) Any question arising between the Board or the Director and the person by whom or on whose behalf plans are deposited as to whether—

- (a) the plans are defective;
- (b) the work would contravene the building regulations or this Part;
or
- (c) a relaxation of or dispensing with the requirements of the building regulation ought to have been granted under subsection (4),

may on the application of that person be determined by the Magistrate, but no such application may be made unless it is made before the proposed work has been substantially commenced; and if the question arising under this subsection is a failure on the part of the Director or the Board to decide whether the plans deposited are defective, the Magistrate may make an order requiring the Board to pass or reject the plans within a time to be specified by the Magistrate.

Power to require removal or alteration of work

85. (1) If any work to which building regulations are applicable, contravenes any provision of them or of this Part, the Board without prejudice to any prosecution under this Part may by notice require the owner either to pull down or remove the work or, if he so elects, to effect such alteration therein as may be necessary to make it comply with building regulations or this Part.

(2) If, in a case where the Board is by any provision of this Part expressly required or authorised to reject plans, any work to which building regulations are applicable is executed either without plans having been deposited, or notwithstanding the rejection of the plans, or otherwise than in accordance with any requirement subject to which the plans were passed, the Board, or the Director with the consent of the Board may by notice to the owner require him to pull down or remove the work, or, if he so elects, to comply with any other requirements specified in the notice, including requirements which might have been made as a condition of passing plans.

(3) If a person to whom a notice has been given under the foregoing provisions of this section fails to comply with the notice before the expiration of twenty-eight days, or such longer period as the Magistrate may on his application allow, the Board or any department or officer of the Government or any contractor engaged by any of them may pull down the work, or effect such alterations therein and the Board may recover from him the expenses reasonably incurred in so doing.

(4) No notice under subsection (1) or (2) shall be given after the expiration of six years from the date of the completion of the work, and, in any case where plans were deposited, no such notice shall be served on the ground that the work contravenes building regulations or does not comply with any provision of this Part, if either the plans were passed or notice of their rejection was not given within sixty days of their deposit or such greater period as may be agreed under section 84(6) and the work has been executed in accordance with those plans and in accordance with any requirement made as a condition of passing the plans.

(5) Nothing in this section shall affect the right of the Board or of the Attorney General or any other person to apply for an injunction for the removal or alteration of any work on the grounds that it contravenes building regulations or any provision of this Part.

Appeals against notices under section 85

86. (1) A person aggrieved by the giving of a notice under section 85 may appeal to the Magistrate's Court.

(2) On appeal under this section, the court shall—

- (a) if it determines that the Board was entitled to give notice, confirm the notice; and
- (b) in any other case, give the Board a direction to withdraw the notice.

(3) An appeal under this section shall be brought within twenty-eight days of the giving of notice under section 85 and the notice shall be of no effect pending the final determination or withdrawal of the appeal.

Deposit of plans to be ineffective after three years

87. Where plans of any proposed work have been deposited in accordance with building regulations or this Part, and either the plans have been passed or notice of rejection of them has not been given in accordance with this Part, and the work to which the plans relate has not been completed within three years of the deposit of those plans, the deposit of the plans shall be of no effect.

PART X

COMPENSATION

Right to payment of compensation

88. (1) There shall be a right to the payment of compensation assessed in accordance with this Ordinance in the following cases, namely—

- (a) where a grant of development permission has been revoked or modified and—
 - (i) the holder of that permission, or his successor in title, has incurred expenses necessarily arising out of commencing to develop or developing in accordance with that permission or has otherwise suffered loss or damage directly attributable to such revocation or modification; or
 - (ii) any person with an interest in the land or who has lent money on the security of the land, has suffered loss or damage directly attributable to such revocation or modification;
- (b) where a building has been destroyed by fire, hurricane or other natural disaster and the Board refuses to allow a building of

similar cubic content to be erected in the same position, as near as can be, to the destroyed building;

- (c) where the Board is empowered, under any law for the time being in force, or obtains the consent of the owner thereof to such action, to require any building to be demolished, altered, removed or relocated, or the cessation of use of any land for a particular purpose.

(2) Compensation payable shall be assessed in respect of loss or damage consisting of the depreciation in value of any interest in land directly attributable to the revocation or modification of a development permission if—

- (a) the development permitted by the development permission revoked or modified has not been carried out; or
- (b) the person claiming compensation acquired an interest in the land or building to which the development permission relates for valuable consideration after the grant of that development permission and such development permission, at the material time, had not lapsed under section 50.

(3) For the purposes of this section, any expenditure incurred in the preparation of plans for the purposes of any work, or upon similar matter preparatory thereto, shall be taken to be included in the expenditure incurred in carrying out that work.

(4) Subject to subsection (3), no compensation shall be payable under this section in respect of any work carried out before the grant of development permission which is revoked or modified, or in respect of any other loss or damage (not being loss or damage consisting of depreciation of the value of an interest in the land) arising out of anything done or omitted to be done before the grant of that permission.

Position where land is subject to mortgage

89. Where any compensation is payable under this Part in respect of the depreciation of the value of an interest in land which is subject to a mortgage—

- (a) the amount of the compensation payable shall be assessed as if the interest was not subject to the mortgage;
- (b) a claim for any part of such compensation may be made by any mortgagee of that interest, but without prejudice to the making of a claim by the person entitled to the interest;
- (c) no compensation to which this section applies shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage); and
- (d) any compensation to which this section applies which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee, or, if there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.

Claims for compensation

90. (1) A claim for compensation alleged to be payable under this Part shall be made in writing to the Director within three months of the date upon which notice of the decision which gives rise to the claim was served upon the person who makes the claim.

(2) When a claim is made under subsection (1), the Director, by written notice served on the claimant, may require the claimant to provide such further information in support of the claim as may be specified in the notice served by the Director, and a decision on the claim may be deferred until such further information has been supplied by the claimant.

(3) Where a claim for compensation has been made, the Director, after making such enquiries as appear to him to be necessary, shall submit the claim and his own recommendation on the matter to the Minister for a decision as to the action to be taken on the claim. Where such a claim for compensation cannot be settled through negotiation between the claimant and the Government, the question as to whether any compensation is payable to the claimant, or as to the amount thereof, shall be referred by the Minister for decision by the Magistrate's Court, which for the purpose shall be constituted as provided by section 18 of the Land Acquisition Ordinance, and sections 18 to 30 of that Ordinance shall apply with such modifications as the circumstances require to the assessment of compensation payable under this Part as they apply in the case of compensation payable under the Land Acquisition Ordinance.

PART XI

MISCELLANEOUS AND SUPPLEMENTARY

Powers of entry

91. (1) Subject to subsection (2), the Director, or any person authorised by him in writing, may at any reasonable time enter on any land or in any building—

- (a) to inspect or survey the land, or any building for the purpose of the preparation of any development plan, or to decide whether or not any development plan should be prepared under Part V;
- (b) to determine whether any unauthorised development is being or has been undertaken on the land or in any building thereon;
- (c) to determine whether any order or interim order should be made under Part VII, or Part VIII or for the exercise of any powers conferred by any such order;
- (d) to obtain information relevant to the determination of any application for development permission;
- (e) for the purposes of determining whether or not any compensation is payable under Part X, or as to the amount thereof.

(2) No person shall enter on any land or building under this section, except with the consent of the owner or occupier thereof, without giving such owner or occupier not less than twenty-four hours written notice of his intention so to do and the intended purpose of such entry; and if the person entering requires to search and bore for the purpose of examining the nature of the sub-soil, that fact shall be stated in such notice.

(3) Before exercising any powers under this section, the Director or any other person concerned shall, so far as is practicable so to do, identify himself to the occupier or other person who is or appears to be in control of the land or building concerned.

(4) The powers conferred by this section shall be deemed to extend to permit the Director or other person concerned to make such examination and inquiries as are necessary to achieve the purposes for which the entry was authorised.

(5) If any damage is caused by reason of the exercise of any right of entry conferred by this section, or in the making of any survey for the purpose for which such right of entry was conferred, or by the wrongful or negligent use of powers conferred, or alleged to have been conferred, by this section, the Director, as soon as may be after such entry, shall pay compensation to the person injured thereby. If the amount of such compensation cannot be agreed, the amount payable shall be determined in the same manner as compensation payable under section 88, and the Director shall refer the matter accordingly.

(6) Nothing in subsection (2) or (5) applies in respect of any work or operation which the Governor, the Minister, the Board, or any public officer is authorised to do or carry out in relation to any building or land under Part IX or the building regulations and for the purposes of Part IX and those regulations it is declared that the Minister, the Board and any public officer has a right to enter on any land or in any building at all reasonable hours—

- (a) for the purpose of ascertaining whether there is, or has been, on or in connection with the premises, a contravention of Part IX, or of the building regulations;
- (b) for the purpose of ascertaining whether or not circumstances exist that would authorise or require the Board to take any action, or execute any work, under Part IX or under the building regulations;
- (c) for the purpose of taking any action, or executing any work, authorised or required by Part IX or the building regulations or by notice made under Part IX to be taken, or executed, by the Board; or
- (d) generally for the purpose of the performance by the Board of its functions under Part IX or under the building regulations;

and no compensation shall be payable in respect of the exercise of any power specified in this subsection.

(7) Any person who hinders or obstructs the Minister, the Board, or any public officer in the exercise of any power of entry commits an offence and is

liable on summary conviction to a fine of \$1,000 and to imprisonment for a term of six months.

Service of notices

92. Any notice or other document required or authorised to be given or served under this Ordinance is deemed served on or given to a person—

- (a) by delivering it to the person personally;
- (b) by leaving it at the usual or last known place of abode of that person;
- (c) by serving it on the attorney or agent who accepts service for and on behalf of an owner and occupier of the land;
- (d) by serving it on an attorney or agent holding a power of attorney where the attorney or agent is authorised to accept the service;
- (e) by publishing it in three consecutive issues of a newspaper in general circulation;
- (f) by publishing it in three consecutive issues of the *Gazette*;
- (g) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode or, where an address for service has been given by that person, at that address; or
- (h) in the case of a body corporate, or other body, by delivering it to the secretary or other officer of that body at its registered or principal office in the Islands, or by sending it in a prepaid registered letter addressed to the secretary or other officer of that body at that office.

(Substituted by Ord. 2 of 2018)

Power to require information

93. (1) For the purpose of enabling the Director, the Minister, or the Board to make an order or serve a notice or other document under this Ordinance, the Director may require the owner or the occupier of any premises, and any person who either directly or indirectly, receives rent in respect of any land or premises, to state in writing the nature of his interest therein, and the name and address of any other person known to him to have an interest therein, whether as a freeholder, mortgagee, lessee or otherwise.

(2) Any person who, having been required in pursuance of this section to give any such information, without reasonable cause fails to give that information within twenty-eight days of being so required, or such longer period as the Director may allow in any particular case, commits an offence and is liable on summary conviction to a fine of \$200.

(3) Any person to whom information has been given under this section, or otherwise under this Ordinance, or who has obtained any information in the course of his duties under this Ordinance, who makes any unauthorised disclosure of that information to any person who is not required to receive that

information commits an offence and is liable on summary conviction to a fine of \$10,000 or to imprisonment for a term of six months, or to both.

Register of planning and associated decisions

94. (1) The Director shall maintain a Register of all—

- (a) applications for a grant of development permission;
- (b) decisions on such applications;
- (c) development permissions granted, and any conditions attached thereto;
- (d) enforcement notices;
- (e) public access notices or agreements under section 75;
- (f) any orders made under Part VII or Part VIII;
- (g) applications for approval of plans under the building regulations;
- (h) decisions on such applications;
- (i) building regulation, approvals granted and any conditions thereto;
- (j) decisions on appeals against any decisions made or action taken under this Ordinance;
- (k) applications for the Minister's certificate of approval and the decisions thereon.

(2) Any person who so requests shall be provided by the Director with a copy of any entry in the Register upon payment of the prescribed fee.

(3) The Register required by subsection (1) to be maintained may be kept in an electronic data storage and retrieval system whether by use of a computer or otherwise.

Notification of decisions to Registrar of Lands

95. The Director shall notify the Registrar of Lands, giving full details of the parcels of land affected, of every—

- (a) grant of development permission;
- (b) modification or revocation of a grant of development permission;
- (c) enforcement notice;
- (d) building preservation order or interim building preservation order;
- (e) plant preservation order or interim plant preservation order;
- (f) amenity order;
- (g) public access agreement or order, and the Registrar of Lands shall enter particulars thereof in the relevant register in respect of the land concerned.

Death of person having claim or right

96. Any reference in this Ordinance to any person having a claim for or a right to the payment of compensation, or to appeal against any decision given under this Ordinance, upon the death of that person before the determination of the matter at issue, shall be construed as if such reference were a reference to that person's personal representatives.

Right of appeal

97. (1) Subject to this Ordinance, an appeal shall lie to the Physical Planning Appeal Tribunal against any decision given by the Board under this Ordinance—

- (a) refusing an application for the grant of development permission, or for the modification or revocation of a grant of development permission;
- (b) imposing conditions on a grant of development permission;
- (c) requiring the completion of a development within a time limit;
- (d) issuing an enforcement notice or as to the terms thereof;
- (e) imposing a building preservation order or a plant preservation order:

Provided that no appeal shall lie against an interim building preservation order or an interim plant preservation order;

- (f) issuing a notice requiring discontinuance of use or alteration or removal of buildings or works;
- (g) making an amenity order, on any of the grounds mentioned in section 74(2).

(2) Subject to any provision to the contrary in this Ordinance any person desiring to appeal under subsection (1) shall within twenty-eight days of receiving notification of the decision desired to be appealed against, send to the Director notice of appeal, who shall forthwith on receipt thereof send a copy of such notice to the Tribunal and the Board.

(3) A notice given under subsection (2) shall set out—

- (a) concisely the decision appealed against;
- (b) a description of the land affected thereby;
- (c) the name of the appellant;
- (d) the interest of the appellant in the land affected by the decision; and
- (e) concisely the grounds on which the appellant wishes to appeal against the decision,

and shall be accompanied by—

- (i) a copy of all papers and documents submitted by the appellant or any person acting on his behalf to the Board;

- (ii) a copy of the decision appealed against; and
- (iii) a plan sufficiently identifying the location and boundaries of the land affected by the decision.

(4) On receipt of a copy of the notice given under subsection (2) the Tribunal shall—

- (a) reject it, without prejudice to any further such notice being given, if it appears not to comply with subsection (3);
- (b) if the appellant appears not to have any sufficient interest in the land to justify him appealing against the decision, reject the notice of appeal.

(5) Where a notice of appeal is not rejected under subsection (4), the Tribunal shall, in its discretion, decide whether the appeal shall be dealt with by public inquiry or by written representations and make an order accordingly, and shall, within twenty-eight days of receipt of the notice of appeal, notify the appellant and the Board accordingly.

(6) The Tribunal shall take the following matters into consideration before deciding whether the appeal may be dealt with by written representations or by public inquiry—

- (a) whether the public interest requires that all persons (including the appellant) who may have a view to express in relation to the matter to which the appeal relates should have an opportunity of having their views taken into account, of submitting evidence and of examining witnesses called by others;
- (b) without prejudice to the generality of paragraph (a), whether it would be reasonably practicable to deal with the appeal by way of written representations;
- (c) the importance of the matter to which the appeal relates.

(7) Where the Tribunal decides that a public inquiry shall be held, it shall so order, and a copy of such order shall be sent to the appellant and to the Board and the order shall be published in the *Gazette*.

(8) On, or shortly after, making an order under subsection (7) the Tribunal, acting in its discretion, may by order—

- (a) appoint one or more persons (hereinafter called “inspectors”) to conduct the public inquiry and to report to it in relation to the appeal and, if it appoints two or more inspectors the Tribunal shall direct one inspector to be responsible for the conduct of the inquiry generally, and to report to it generally and may direct the other or others to be responsible for the conduct of such parts of the inquiry as relate to matters specified in the order and to report to it specifically in relation to those matters, or that the other or others shall act as advisers to the inspector charged with the general conduct of the inquiry;

- (b) appoint the time and place at which the public inquiry shall commence;
- (c) fix the remuneration to be payable out of public funds to any person appointed as an inspector.

(9) Unless it directs that a public inquiry shall be held in relation to an appeal, the Tribunal shall direct that it shall be dealt with by written representations. (*Amended by Ord. 23 of 2010*)

Procedure at public inquiries

98. (1) Subject to this Ordinance and to any regulations made thereunder, the inspector shall determine the procedure to be followed at any public inquiry ordered under section 97 but if there is more than one inspector, the inspector charged pursuant to section 97(8) with the general conduct of the inquiry shall determine it.

(2) Without prejudice to the generality of subsection (1)—

- (a) there may be given and received in evidence at a public inquiry any material which the inspector may consider relevant to the subject matter of the inquiry whether or not it would be admissible in a court of law;
- (b) evidence at a public inquiry may be given on oath or affirmation or as unsworn evidence or partly as sworn evidence and partly as unsworn evidence, as the inspector may think fit;
- (c) any person may be represented by another person acting with his authority and whether or not that other person is an Attorney.

(3) It shall be the prime function of a public inquiry to reach a conclusion as to the recommendations it makes to the Tribunal to enable it to decide upon the appeal and, subject as provided in this section, the inspector may in his absolute discretion adopt such procedure as appears to him most convenient to enable that function to be fulfilled without being bound to adopt such procedure as might be appropriate in a court. (*Amended by Ord. 23 of 2010*)

Preparation and submission of reports

99. (1) As soon as reasonably possible after the conclusion of any public inquiry ordered under section 97 the inspector shall submit his report thereon to the Tribunal.

(2) Every report under this section shall contain—

- (a) a list of the names and addresses of all persons heard at the public inquiry and, where any such person was represented by another, the name and address of that representative;
- (b) a list of the names and addresses of all persons giving evidence at the public inquiry;
- (c) a summary of the evidence given by each person who gave evidence at the inquiry;

- (d) a list of all exhibits (including models, maps, plans, drawings, sketches, diagrams, photographs, petitions, and written statements) received in evidence at the inquiry;
- (e) the inspector's findings of fact in relation to any relevant matter;
- (f) any advice or comment that the inspector wishes to make;
- (g) the recommendations of the inspector to the Tribunal as to the manner in which the Tribunal should dispose of the appeal.

(3) Every report under this section shall be accompanied by all documents referred to in subsection (2)(d). (*Amended by Ord. 23 of 2010*)

Decision and notification of appeal

100. (1) As soon as reasonably possible after receiving the report under section 99 the Tribunal, acting in its discretion, shall decide whether to allow or dismiss the appeal and may—

- (a) allow the appeal in whole or in part;
- (b) if the Tribunal allows the appeal in part, do so by varying the decision of the Board in any manner it thinks fit, but not so as to impose any condition or requirement the Board had no power under this Ordinance to impose when making the decision or taking the action appealed against;
- (c) correct any procedural defect in the decision or error of law in the order of the Board appealed against;
- (d) dismiss the appeal.

(2) The Tribunal shall not be bound to accept any recommendation contained in the report and may decide the appeal in whole or in part in a manner contrary to any such recommendation, but if it does so the Tribunal shall, in the notification of decision required by subsection (4), state its reasons for so doing.

(3) The Tribunal shall not, in deciding the appeal, consider any evidence not given in the public inquiry unless—

- (a) that evidence is in writing; and
- (b) it has given to the appellant or the Board (as the circumstances require) a full and sufficient opportunity of commenting in writing upon it and making representations to the Tribunal in writing in relation to it.

(4) As soon as reasonably possible after receiving a report to which subsection (1) relates, the Tribunal shall send to the Director written notification of its decision on the appeal; and the Director shall on receipt thereof, forward a copy of the decision to the appellant and the Board. (*Amended by Ord. 23 of 2010*)

Appeals by written representation

101. (1) Whenever the Tribunal has directed that an appeal to which section 97 relates shall be dealt with by written representations the Tribunal shall send a

copy of the direction to the appellant and to the Board and each of them shall within six weeks thereafter send to the Tribunal and to the other of them such written representations as they wish to make in relation to the appeal (herein referred to as “written representations”).

(2) Within twenty-eight days of the receipt of the written representations of the other, or within the six week period specified in subsection (1), whichever is the later, the appellant and the Board shall send to the Tribunal and to the other of them in writing such further representations as they may wish to make arising out of the written representations of the other.

(3) The Tribunal, acting in its discretion, shall, following the expiration of the period specified in subsection (2), decide the appeal and in deciding shall have like powers to those under section 100 (1)(a), (b), (c) and (d).

(4) The Tribunal, in deciding an appeal by written representations, shall not—

- (a) receive any oral evidence; or
- (b) consider any representations in writing other than those provided for by subsections (1) and (2) unless he has given the appellant or the Board (as the circumstances require) a full and sufficient opportunity of answering them in writing. (*Amended by Ord. 23 of 2010*)

Appeals to a court

102. (1) Save as provided in the Ordinance or this section no appeal shall lie against a decision or order of the Tribunal or the Board in a matter to which section 97 relates other than as provided for by sections 97 to 101 (inclusive) nor shall any such decision or order be reviewable in any manner by any court.

(2) Any person aggrieved by the decision of the Tribunal on an appeal under this Part may appeal by way of petition to the Governor; and there shall be no right of audience on such appeal and the Governor’s decision on such appeal shall be final.

(3) The applicant may apply to the Supreme Court for judicial review of a decision of the Tribunal (but not of the Board) by which he is aggrieved on, and only on a point of law and not in any manner upon the merits of the policies applied by the Tribunal in reaching the relevant decision.

(4) Any application for judicial review to which subsection (3) relates shall be filed in the Supreme Court within twenty-eight days of the notification of the Tribunal’s decision. (*Amended by Ord. 23 of 2010*)

Offences

103. (1) Any person who, without reasonable excuse—

- (a) carries out, or commences to carry out, any development contrary to section 41;

- (b) fails to comply with any condition to which a grant of development permission or notice of passing plans under Part IX, is subject;
- (c) fails to comply with the requirements of a notice issued under section 60 or 93;
- (d) fails to comply with the requirements of an enforcement notice issued under section 58;
- (e) fails to comply with the requirement of—
 - (i) a building preservation order made under section 69 or an interim building preservation order made under section 70;
 - (ii) a plant preservation order, or an interim plant preservation order, made under section 71;
 - (iii) an amenity order made under section 73;
- (f) fails to comply with any requirement of Part IX or of building regulations made thereunder;
- (g) wilfully gives false information, relating to any matter in respect of which he is required to give information under this Ordinance;
- (h) obstructs or hinders any person in the exercise of any right conferred under an access order;
- (i) obstructs any person in the exercise of any powers or the performance of any duties under this Ordinance; or
- (j) fails to comply with any regulations made with respect to the control of any activities in, or the management of, any conservation area,

commits an offence and is liable—

- (i) on summary conviction to a fine of \$10,000, and if, in the case of a continuing offence, the contravention is continued after such conviction, the person commits a further offence and is liable to a fine of \$200 for each day on which the contravention continues; or
- (ii) on conviction on indictment, to a fine of \$20,000 or to imprisonment for a term of twelve months, or to both.

(Substituted by Ord. 2 of 2010)

(2) Where an offence under this Ordinance is committed by a body corporate and is proved to have been committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate, or of any person who was purporting to act in such capacity, he, as well as the body corporate, commits that offence and is liable to be proceeded against and punished accordingly.

(3) Proceedings in respect of an offence alleged to have been committed under this Ordinance may be brought, with the approval of the Minister, by the Director:

Provided that if it is considered that the gravity of the offence requires that it be tried on indictment, proceedings shall only be brought by or with the consent of the Director of Public Prosecutions. (*Amended by Ord. 7 of 2013*)

Prohibited specified conduct

104. (1) A person shall not—

- (a) clear a site unless prior authorisation is given by the Director;
- (b) commence development prior to applying and obtaining a development permission and building permit;
- (c) erect a building without a development permission and building permit;
- (d) continue unlawful development on a site after the person has received a stop notice;
- (e) occupy a building or any other form of development unless the person obtains a certificate of occupancy;
- (f) use a parcel of land for the display and sale of motor vehicles or the display and sale of any other items where that parcel of land has not been approved for the purposes as stated here;
- (g) use a container for any building or development purpose unless prior approval is given by the Board;
- (h) erect advertisement signs on land and buildings except where provided for under the Ordinance; or
- (i) leave an approved advertisement sign on the land after the approved time.

(2) In this section —

“clear a site” means to remove trees, stumps, brush, stone or topsoil by heavy equipment or hand;

“container” means—

- (a) a freight or shipping receptacle;
- (b) a trailer; or
- (c) any moveable prefabricated structure.

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of \$10,000.

(*Inserted by Ord. 2 of 2018*)

Fixed penalty

105. (1) This section applies to an offence specified in section 104(1).

(2) Where an enforcement officer has reason to believe that a person has committed or is committing an offence under section 104(1), the officer may issue to the person a ticket, in the form in Schedule 1 informing the person of the

option to discharge any liability to conviction in respect of the offence by payment of a fixed penalty as specified in Schedule 2 within fourteen working days from the date of receipt of the ticket.

(3) An enforcement officer shall send a duplicate of the ticket to the Magistrate and the duplicate shall be deemed to be a complaint laid before the Magistrate.

(4) A person is not liable to conviction for an offence if the person pays the fixed penalty in accordance with subsection (2).

(Inserted by Ord. 2 of 2018)

Payment of fixed penalty

106. If a person opts to pay the fixed penalty the person shall pay the fixed penalty to the Clerk to the Magistrate's Court as stated in the ticket given pursuant to section 105(2) and the payment shall be accompanied by the ticket.

(Inserted by Ord. 2 of 2018)

Failure to pay fixed penalty

107. Where a person fails to pay the fixed penalty within the time specified in the notice, the person shall appear at the Magistrate Court specified in the notice on the day and at the hour stated in the notice to answer the complaint.

(Inserted by Ord. 2 of 2018)

Certificate of payment or non-payment of fixed penalty

108. In any proceedings, a certificate that payment of the fixed penalty was or was not made to the Clerk to the Magistrate's Court by the date specified in the certificate shall, if the certificate purports to be signed by the Clerk to the Magistrate's Court, be admissible as evidence of the stated facts. *(Inserted by Ord. 2 of 2018)*

Scope and effect

109. For the avoidance of doubt, the issue of a ticket under section 104 and the payment of the fixed penalty under section 106 as specified in Schedule 2, does not absolve a person from the responsibility to comply with an enforcement notice, a stop notice or any other notice, order or directions made by the Director, under this Ordinance. *(Inserted by Ord. 2 of 2018)*

Enforcement

110. (1) Sections 103 and 104 shall be enforced by—

(a) a building inspector; or

(b) a person appointed as a Police Officer,

who shall be an enforcement officer for the purposes of this Ordinance.

(2) An enforcement officer referred to in subsection (1) shall have the power—

- (a) to enter a site for the purpose of preventing the commission of an offence under sections 103 and 104;
- (b) to arrest without warrant any person committing such an offence or whom the enforcement officer reasonably suspects to be committing, to have committed or to be about to commit such an offence; and
- (c) to seize the relevant equipment, machinery and materials as may be found on the site or any item or thing of whatever kind that the enforcement officer reasonably suspects has been used in the commission of an offence until the determination of proceedings in respect of that offence.

(3) An enforcement officer may arrest without warrant any person that the enforcement officer reasonably suspects of being concerned in a contravention of section 104 and, who refuses to give his name and address or who gives a name and address that the enforcement officer reasonably believes to be false.

(4) It is lawful for an enforcement officer, in the case of resistance, to break open any door, and to force and remove any other impediment or obstruction to the entry, search or seizure.

(5) A person who obstructs entry or refuses to make available for seizure the relevant equipment, machinery and materials requested by the Director or an enforcement officer commits an offence and is liable on summary conviction to a fine of \$10,000 or to imprisonment for a term of not less than one year and not exceeding two years, or to both.

(Inserted by Ord. 2 of 2018)

Court may order removal of unauthorised structure

111. Where a person is convicted of an offence under this Ordinance the Court may, where appropriate, in addition to any other penalty imposed, order that any unauthorised structure be removed. *(Inserted by Ord. 2 of 2010)*

Regulations

112. (1) The Governor may make regulations for carrying into effect this Ordinance.

(2) Without derogation from the generality of the power conferred by subsection (1), such regulations may provide for—

- (a) the form and scope of development plans;
- (b) the procedures to be followed and the forms to be used in connection with—
 - (i) an application for a grant of development permission;
 - (ii) an enforcement notice;

- (iii) the modification or revocation of a grant of development permission;
- (iv) a claim for compensation;
- (c) development which may be permitted under section 41(2), without the requirement of a prior grant of development permission;
- (d) the management and protection of conservation areas and the preservation of any form of marine or other wildlife therein;
- (e) the form of an impact statement;
- (f) access to land for recreational purposes;
- (g) fees payable for the purposes of the Ordinance;
- (h) the procedures of the Board;
- (i) the qualifications required of persons signing forms, plans and drawings on behalf of any applicant for development permission;
- (j) the control of advertisements;
- (k) the preservation of buildings or plants;
- (l) the form of the register to be maintained under section 94.

Application to the Crown and Government

113. This Ordinance shall bind the Crown and the Government.

SCHEDULE 1*(Section 105(2))***TURKS AND CAICOS ISLANDS****PHYSICAL PLANNING ORDINANCE****TICKET TO PAY FIXED PENALTY**

TAKE NOTICE THAT Ihave reason to believe that an offence, particulars of which are given below, has been committed by you under section.....(*insert provision of Ordinance*) of the Ordinance

The fixed penalty for the offence is.....(*penalty in words and figures*).

If this amount is paid to the Clerk to the Magistrate's Court within fourteen (14) days from the date of this notice no proceedings will be taken and any liability for conviction of the offence will be discharged. The offence carries a maximum fine of \$10,000.

In paying the fixed penalty the following conditions shall be observed:

- (1) The fixed penalty shall be accompanied by this notice.
- (2) Payment of the fixed penalty shall be made or remitted to the Clerk to the Magistrate's Court at any office of the Magistrate's Court in the Islands.

Should you fail to pay the fixed penalty you are hereby required to attend the Magistrate's Court on theday of20.....at...o'clock at the address below as the defendant in the matter in respect of which this ticket was issued.

.....
.....

(*state name and address of court*)

THIS NOTICE was given at(*state location*) on.....20.....(*state date*) at.....am/pm(*state time*).

PARTICULARS OF OFFENCE

At.....am/pm on theday of.....
20.....at.....you.....
.....contrary to.....(*state section contravened*) of the Physical Planning Ordinance

Name of person.....

Address of person.....

.....
Signature of Enforcement Officer

(*Inserted by Ord. 2 of 2018*)

SCHEDULE 2

(Section 105(2))

**OFFENCES IN RESPECT OF WHICH
LIABILITY TO CONVICTION MAY BE DISCHARGED
BY PAYMENT OF A FIXED PENALTY**

OFFENCE	SECTION	FIXED PENALTY
Clearing a site without authorisation	104(1)(a)	\$5,000
Commencing development prior to applying and obtaining development permission	104(1)(b)	\$5,000
Erecting a building without development permission and building permit	104(1)(c)	\$7,500
Continuing unlawful development on a site after stop notice received	104(1)(d)	\$8,500
Occupying a building without a certificate of occupancy	104(1)(e)	\$2,500
Use of a parcel of land for display and sale of motor vehicles and other items on land not approved for such purposes	104(1)(f)	\$1,000
Use of a container without prior approval	104(1)(g)	\$5,000
Erecting advertisement signs, without permission	104(1)(h)	\$1,500
Leaving an erected advertisement on land after approved period	104(1)(i)	\$1,000

(Inserted by Ord. 2 of 2018)

PHYSICAL PLANNING BOARD REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Interpretation
3. Application
4. Agenda
5. Circulation of agenda
6. Items of business not on the agenda
7. Chairman
8. Pecuniary interest
9. Meetings to be in private
10. Conduct of meetings
11. Invitation to attend and address meetings
12. Frequency of meetings (*Inserted by L.N. 2/2017*)
13. Special meetings (*Inserted by L.N. 2/2017*)
14. Site visits
15. Decision
16. Minutes
17. Public information about meetings
18. Validity of proceedings
19. Allowances
20. Board may regulate its own procedures

SCHEDULE: Allowances

PHYSICAL PLANNING BOARD REGULATIONS – SECTION 7

(Legal Notices 46/1990 and 2/2017)

Commencement

[15 October 1990]

Citation

1. These Regulations may be cited as the Physical Planning Board Regulations.

Interpretation

2. In these Regulations—

“Board member” means a member of the Board;

“Chairman” means the Chairman of the Board;

“item of business” means an item of business on an agenda circulated before a meeting or taken under regulation 6;

“meeting” means a meeting of the Board called to discuss or decide items of business.

Application

3. The Regulations shall apply to the conduct of business at all meetings of the Board.

Agenda

4. (1) The agenda for a meeting shall be settled by the Director who shall in the exercise of his powers under these Regulations consult with and have regard to the opinion of the Chairman on that matter.

(2) Any Board member may, on first informing the Chairman, request that an item of business be placed on the agenda for a meeting.

(3) Where an item of business requested under subregulation (2) is not placed on the agenda for the meeting next following the request, that fact shall be notified by the Chairman to that meeting.

Circulation of agenda

5. (1) The Director shall send or give to each Board member and any officer whose attendance at a meeting has been requested a copy of the agenda together with all the necessary papers for discussion at the meeting not less than three days before the date of that meeting.

(2) The Director shall make available a copy of the agenda but not any papers accompanying the agenda to the press and broadcasting organisations.

Items of business not on the agenda

6. (1) Subject to this regulation, a meeting shall not discuss, consider or entertain any item of business which is not on the agenda for that meeting.

(2) Where the Minister certifies in writing that an item of business, other than an application for a grant of development permission, of great importance or urgency has arisen on

which the opinion or decision of the Board is necessary, that item of business shall be discussed and, where relevant, decided upon by the Board notwithstanding that it was not placed on the agenda for the meeting at which it is to be discussed and, where relevant, decided.

Chairman

7. (1) The Chairman, or in his absence the Vice-Chairman, shall take the chair at a meeting.

(2) Where the Chairman and Vice-Chairman are both absent, the Board members shall elect from amongst themselves one Board member to take the chair for the meeting.

(3) Where the Chairman or Vice-Chairman enters a meeting after it has commenced, the Board member who has taken the chair shall vacate it for the Chairman or Vice-Chairman at the conclusion of the item of business under discussion at the time of the entry into the meeting of the Chairman or Vice-Chairman.

Pecuniary interest

8. (1) There shall be an item of business as a preliminary item on the agenda of each meeting which shall be named “pecuniary interest” and under this item—

(a) the Chairman shall draw the attention of the Board members and officers in attendance to the law relating to pecuniary interest; and

(b) Board members and officers in attendance shall declare their pecuniary interest in any item of business on the agenda or to be discussed under regulation 6(2).

(2) In respect of any item of business on which he has declared a pecuniary interest the Chairman, or where he has taken the chair, the Vice-Chairman, or where a Board member has taken the chair, that Board member, shall vacate the chair for that item of business.

(3) A Board member or an officer in attendance who has declared a pecuniary interest in an item of business to be discussed at a meeting shall, when that item of business is reached on the agenda at that meeting leave the meeting while that item of business is being discussed.

(4) Where, owing to the number of Board members who have declared a pecuniary interest in an item of business at a meeting, the Board lacks, and is likely at any subsequent meeting to lack a quorum to transact that item of business, that fact shall be recorded in the minutes and reported to the Minister.

(5) The Minister acting in his discretion may grant a dispensation subject to such terms and conditions as he shall think fit to impose, to all or any of the Board members who have declared a pecuniary interest in an item of business to which sub-regulation (4) applies so as to allow that item to be disposed of at the meeting of the Board next following the meeting referred to in subregulation (4).

Meetings to be in private

9. Unless the Board decides otherwise in respect of any meeting, part of a meeting, or item of business at a meeting, no members of the public other than those specifically invited to attend and no representatives of the press shall attend a meeting and members will only divulge to such persons matters of public record.

Conduct of meetings

10. (1) The names of all Board members present at a meeting or part of a meeting shall be recorded in the minutes together with the period for which they were present, if they were not present for the duration of the meeting.

(2) Each item of business shall be concluded or adjourned before the next item is taken.

(3) The decisions of the Board shall be by a majority of votes of members present and voting and, in addition to an original vote, the Chairman shall have a second or casting vote in any case in which voting is equal.

(4) When any item of business is put to a vote, the result of the vote but not, subject to subregulation (5), the names of the Board members present and voting, shall be recorded in the minutes.

(5) A Board member may request that his vote on any item of business be personally recorded by name in the minutes and that request shall be complied with.

Invitation to attend and address meetings

11. (1) The Board may in respect of any item of business at a meeting, invite a person not being a public officer associated with that item of business to attend, address the meeting and answer questions from the Board members on that item of business.

(2) When a person referred to in subregulation (1) has ended that person's address and has answered the questions put to that person by the Board members, that person shall withdraw from the meeting.

(3) Where an item of business at a meeting is—

- (a) an application for a grant of development permission;
- (b) a proposal to revoke or modify a grant of development permission;
- (c) a reconsideration of an enforcement notice;
- (d) a draft or interim building preservation order;
- (e) a draft or interim plant preservation order; or
- (f) a draft amenity order,

and a person associated with that item of business is invited to and does address the meeting on that item of business, the Director shall be given an opportunity to address the meeting on that item of business in the presence of and by way of reply to that person.

(4) The Board may, and shall if so directed by the Governor, or the Minister, invite any public officer to attend, *ex-officio*, any or every meeting.

(5) A public officer invited under subregulation (4) may with the Chairman's approval, authorise any other public officer to attend in his stead and represent him at any meeting.

Frequency of meetings

12. The Board shall have no more than fifteen meetings per annum. (*Inserted by L.N. 2/2017*)

Special meetings

13. Notwithstanding regulation 12 and pursuant to section 43 of the Ordinance, the Board may convene a special meeting for the purpose of dealing with an expedited application for a grant of development permission. *(Inserted by L. N. 2/2017)*

Site visits

14. (1) The Board may in connection with any item of business determine to make a visit to the site to which that item of business refers.

(2) The Board may constitute a committee of not less than three Board members to make a site visit, on its behalf.

(3) The Director shall inform the owner or occupier of the site and the applicant, if any, of the date and time of the proposed site visit.

(4) The Director or officer authorised by the Director shall accompany the Board members on a site visit.

(5) The officer accompanying the Board members on a site visit shall make a record of the visit and any discussions between the Board members and the applicant, if any, his representatives, if any, and any other persons, who make representations on the matter in respect of which the site visit is taking place and shall report on the visit to the meeting next following the site visit.

(6) The Board may in considering an item of business in respect of which a site visit has taken place, take into account the report referred to in subregulation (5) and the opinions of the Board members who made the site visit on behalf of the Board.

Decision

15. (1) A decision taken on any item of business at a meeting shall be recorded in the minutes.

(2) Where the Director is of the opinion that the Board has taken or is likely or about to take a decision or make recommendation that is or may be—

- (a) illegal;
- (b) impractical or unenforceable; or
- (c) unclear,

he shall inform it of his opinion and invite it to reconsider its decision or recommendation on that item of business.

(3) Where the Board either declines to reconsider or after reconsideration declines to alter the decision or recommendation which caused the Director to take action under subregulation (2) that fact shall be recorded in the minutes.

Minutes

16. (1) The minutes of a meeting are to be a true and correct record of the proceedings of the meeting in respect of which they have been prepared.

(2) The Chairman shall be responsible for ensuring that an accurate record of the proceedings, of every meeting is taken at every meeting, and for the preparation of the minutes.

(3) A copy of the unsigned minutes of the next preceding meeting shall be circulated with the agenda and papers of the next following meeting unless the next preceding meeting was less than seven days before the next following meeting in which case the unsigned minutes shall be circulated, with the agenda and papers of a later meeting, if they are not available at that time.

(4) Any Board member who was present at a meeting of which an unsigned copy of the minutes has been circulated may at the meeting at which those minutes are to be approved and signed challenge or object to those minutes before they are approved and signed as being inaccurate or incorrect in a material particular.

(5) When any challenge or objection to the unsigned minutes has been resolved and the minutes have been approved as a true and correct record of the meeting to which they relate, the Chairman and the Secretary shall thereupon sign the minutes in the presence of the members.

(6) A copy of the signed minutes shall be—

- (a) sent to the Minister; and
- (b) kept in the Register.

Public information about meetings

17. (1) Within forty-eight hours of the conclusion of a meeting, the Director shall prepare and issue to the press and broadcasting organisations a summary of that meeting, containing in an accurate manner information on who was present and the principal items which were discussed or decided at that meeting.

(2) No Board member or officer in attendance or person who addressed the meeting under regulation 11 shall have any information in the summary referred to in subregulation (1) ascribed directly or indirectly to him.

Validity of proceedings

18. The validity of any proceeding of the Board shall not be affected by any vacancy amongst the Board members, by any defect in the appointment of a member, by any failure by any Board member to comply with these Regulations, or the Ordinance, or by any irregularities in the meeting of the Board.

Allowances

19. (1) Allowances as set out in the Schedule to may be paid to each Board member in respect of each meeting that Board member attends.

(2) For the purposes of this regulation attendance at a meeting shall be taken to mean that a Board member has attended a meeting for not less than one half of the total period of time a meeting lasts, which shall begin to run from the time fixed by the agenda for the meeting to commence.

Board may regulate its own procedures

20. Subject to these Regulations, the Board may regulate its own procedures.

SCHEDULE

(Regulation 19(1))

ALLOWANCES

Travelling allowance

The cost of travel from the residence of the Board member to the place where the Board is meeting at the rate paid to public officers by the Government.

Accommodation allowance

The cost of overnight accommodation and subsistence up to \$100 per meeting payable to a Board member who has to stay overnight on the island where the Board is meeting, other than the Island on which the Board member is at that time normally resident.

Attendance allowance

- (i) for the Chairman \$75 per meeting;
 - (ii) for a Board member \$50 per meeting.
-

BUILDING REGULATIONS
ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Interpretation
3. Scope
4. Forms of application
5. Grant or rejection
6. Fees
7. Requirements relating to building operations
8. Mandatory inspections
9. Inspection of work
10. Notice to require pulling down or removal of work
11. Register of applications

SCHEDULE 1: Planning Standards

SCHEDULE 2: Turks and Caicos Islands Building Code

SCHEDULE 3: Forms

BUILDING REGULATIONS – SECTION 82

(Legal Notice 45/1990)

Commencement

[15 October 1990]

Citation

1. These Regulations may be cited as the Building Regulations.

Interpretation

2. (1) In these Regulations—

“Board member” means a member of the Board sitting to consider the application;

“Ordinance” means the Physical Planning Ordinance.

(2) For the avoidance of doubt, where building operations are to be carried out which are also a development as defined by the Ordinance, such building operations will be required—

- (a) to comply with the planning requirements of the Ordinance and Regulations made thereunder, as to planning criteria for which development permission will be required, unless it is permitted development;
- (b) to comply with the building regulation requirements of the Ordinance and Regulations made thereunder, as to construction criteria, for which a building permit and intermediate and final certificates will be required.

Scope

3. The Regulations apply to all applications for a building permit.

Forms of application

4. (1) An application to which these Regulations apply shall be submitted to the Director on the application form for permission to develop land set out in Schedule 1 to the Development Permission Regulations.

(2) An application shall be accompanied by the drawings and plans as required by the relevant application form submitted under subregulation (1).

(3) An application and any accompanying drawings and plans shall be—

- (a) submitted in triplicate;
- (b) signed by the applicant or his authorised agent; and
- (c) accompanied by the appropriate fee.

(4) The Director shall not accept any application which is not accompanied by the appropriate fee or which does not conform to any other of the requirements of these Regulations, and he shall immediately advise the applicant or the agent of the omission or defect and either return the application or hold the application pending correction of the omission or defect.

(5) The Director may correct or advise an applicant to correct any minor defect or informality in an application or its accompanying drawings and plans at the time when the application is submitted or at any time thereafter before the application is placed on the agenda for a meeting.

(6) The plans of any proposed work shall not be regarded as having been deposited with the Director under section 84(1) of the Ordinance until the Director is satisfied that the form of the application is suitable for consideration.

Grant or rejection

5. After assessing the application, the Director shall issue a grant of building permit or rejection of building plans on the appropriate form, set out in Schedule 3.

Fees

6. (1) A fee shall be paid in respect of each application for a building permit for building operations not requiring development permission.

(2) The fee to be paid is the fee specified in column 2 of Schedule 4 of the Development Permission Regulations.

Requirements relating to building operations

7. (1) Building operations shall be carried out so that they comply with the drawings and plans submitted under regulation 4, and for which a building permit has been issued under regulation 5, and the specific operations requirements contained in Schedules 1 and 2, both in respect of the building operations and any structure previously built, of which it forms part.

(2) The Director of Planning may authorise minor changes to the approved plans provided that such changes are in conformity with the requirements of Schedule 2.

Mandatory inspections

8. (1) As required by these Regulations, mandatory inspections of the progress of building operations shall be made by the building inspector who shall certify that the building operations undertaken comply with these Regulations, and when building operations have been completed to the satisfaction of the building inspector and in accordance with approved plans he shall issue a completion certificate.

(2) The Director in issuing a building permit shall attach to it forms of request for inspection as set out in Schedule 3.

(3) The builder undertaking the building operation shall, in accordance with the requirements laid down in Schedule 2, complete and return the appropriate form which accompanied the building permit requesting the progress on the building operations to be inspected and certified.

Inspection of work

9. (1) The builder shall permit the building inspector to inspect any building operations in respect of which the building permit has been issued.

(2) Where reasonably required so to do by the building inspector or to establish if building operations comply with these Regulations, the builder shall uncover operation, which have been covered prior to inspection.

(3) The building inspector may test drains and sewers.

(4) The Board or a building inspector may take samples of materials to be used in the construction of buildings or in the execution of other building operations.

Notice to require pulling down or removal of work

10. A notice requiring the pulling down or removal of work referred to in section 85 of the Ordinance shall be in the form specified in Schedule 3.

Register of applications

11. A register of all applications for grant of a building permit shall be kept by the Director. This shall contain such details as, and may be combined with, the register of applications for a grant of development permission to be kept under regulation 23 of the Development Permission Regulations.

SCHEDULE 1*(Regulation 7(1))***PLANNING STANDARDS**

A person wishing to erect a building or structure, or carry out building operations as defined in the Physical Planning Ordinance, shall comply with any planning standards as may from time to time be contained in and published by the Department of Planning as a Development Manual. Such matters as may be provided for therein include:

1. Roads and Parking

1. Width of road reserves, and road design
2. Road classifications
3. Visibility at junctions
4. Parking requirements
5. Street furniture

2. Residential development standards

1. Set backs
2. Site coverage
3. Lot sizes

3. Additional standards relating to non-residential development

(industry, agriculture, fisheries, petrol stations, storage, schools, shops, offices, hotels, public facilities, etc.)

4. Special provisions relating to conservation

1. Beaches and coastline
2. Conservation areas
3. National parks
4. Historic sites, buildings and monuments
5. Environmental protection including the form of impact statements
6. Access
7. Marine or other wildlife, flora and fauna
8. Waste disposal and pollution

5. Subdivision standards

SCHEDULE 2*(Regulation 7(1))***BUILDING CODE**

A person wishing to erect a building or structure, or carry out building operations as defined in the Physical Planning Ordinance, shall comply with such building standards as may from time to time be contained in and published by the Department of Planning as the Turks and Caicos Islands Building Code.

SCHEDULE 3

(Regulation 5)

FORMS

1. Inspection forms (Regulation 8)
2. Grant of building permit (Section 72)
3. Rejection of building plans (Section 72)
4. Notice to remove or alter work (Section 73)

TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
BUILDING REGULATIONS
INSPECTION FORMS

(Regulation 8)

Notice No 1	SETTING OUT	File Block & Parcel No
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REQUEST FOR INSPECTION

Date:

Type of Development:

Name of Builder:

Date and Time of Inspection Needed:

Date of Request:

At least 48 hours' notice must be given to the Director of Planning at the Department of Planning in Grand Turk or in Providenciales and this notice should be confirmed by telephone at least 24 hours before the inspection is needed.

.....

Unable to inspect work, request granted to continue.

Director:.....

Date:

Notice No 2	FOUNDATION EXCAVATION AND REINFORCEMENT PLACING	File Block & Parcel No
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REQUEST FOR INSPECTION

Date:

Type of Development:

Name of Builder:

Date and Time of Inspection Needed:

Date of Request:

At least 48 hours' notice must be given to the Director of Planning at the Planning Department in Grand Turk or in Providenciales and this notice should be confirmed by telephone at least 24 hours before inspection is needed.

.....

Unable to inspect work, request granted to continue work.

Director:

Date:

Notice No 3	FLOOR SLAB	File Block & Parcel No
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REQUEST FOR INSPECTION

Date:

Type of Development:

Name of Builder:

Date and Time of Inspection Needed:

Date of Request:

At least 48 hours' notice must be given to the Director of Planning at the Department of Planning in Grand Turk or in Providenciales and this notice should be confirmed by telephone at least 24 hours before the inspection is needed.

.....

Unable to inspect work, request granted to continue work.

Director:

Date:

Notice No 4	PLUMBING AND ELECTRICAL ROUGHING IN	File Block & Parcel No
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REQUEST FOR INSPECTION

Date:

Type of Development:

Name of Builder:

Date and Time of Inspection Needed:

Date of Request:

At least 48 hours' notice must be given to the Director of Planning at the Planning Department in Grand Turk or in Providenciales and this notice should be confirmed by telephone at least 24 hours before inspection is needed.

.....

Unable to inspect work, request granted to continue work.

Director:

Date:

Notice No 5	WALLS, COLUMNS & BEAMS	File Block & Parcel No
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REQUEST FOR INSPECTION

Date:

Type of Development:

Name of Builder:

Date and Time of Inspection Needed:

Date of Request:

At least 48 hours' notice must be given to the Director of Planning at the Department of Planning in Grand Turk or in Providenciales and this notice should be confirmed by telephone at least 24 hours before the inspection is needed.

.....

Unable to inspect work, request granted to continue work.

Director:

Date:

Notice No 6	ROOF STRUCTURE	File Block & Parcel No
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REQUEST FOR INSPECTION

Date:

Type of Development:

Name of Builder:

Date and Time of Inspection Needed:

Date of Request:

At least 48 hours' notice must be given to the Director of Planning at the Planning Department in Grand Turk or in Providenciales and this notice should be confirmed by telephone at least 24 hours before inspection is needed.

.....

Unable to inspect work, request granted to continue work.

Director:

Date:

Notice No 7	COMPLETION	File Block & Parcel No
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REQUEST FOR INSPECTION

Date:

Type of Development:

Name of Builder:

Date and Time of Inspection Needed:

Date of Request:

At least 48 hours' notice must be given to the Director of Planning at the Department of Planning in Grand Turk or in Providenciales and this notice should be confirmed by telephone at least 24 hours before the inspection is needed.

.....

Unable to inspect work, request granted to continue work.

Director:

Date:

Notice No 8	SPECIAL INSPECTION	File Block & Parcel No
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REQUEST FOR INSPECTION

Date:

Type of Development:

Name of Builder:

Date and Time of Inspection Needed:

Date of Request:

At least 48 hours' notice must be given to the Director of Planning at the Planning Department in Grand Turk or in Providenciales and this notice should be confirmed by telephone at least 24 hours before inspection is needed.

.....

Unable to inspect work, request granted to continue work.

Director:

Date:

FORM DOP 37

TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
BUILDING REGULATIONS

GRANT OF BUILDING PERMIT

(Section 84)

Application No: Block & Parcel No:

To:

In pursuance of powers conferred under the above mentioned Ordinance, the Board/Director hereby GRANTS, in accordance with the terms and conditions authorised by the Ordinance a BUILDING PERMIT in respect of the following development:

more particularly described in your application for a grant of detailed development permission and/or a building permit dated and in the plans and drawings attached thereto, subject to compliance with the relevant statutory provisions and with the following conditions:

The reason(s) for the imposition of the condition(s) is/are:

Dated: Subject:

DIRECTOR OF PLANNING

FORM DOP 38
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
BUILDING REGULATIONS

REJECTION OF BUILDING PLANS

(Section 84)

To:..... Application No:.....
..... Parcel No:.....
.....

In pursuance of powers conferred under the above mentioned Ordinance, the Board **REJECTS** the plans of the following building:

as described in your application dated..... The plans have been rejected on account of the following defects or non-conformity:

Dated: Signed:

DIRECTOR OF PLANNING

NOTES:

1. Any question arising as to the propriety of this rejection may be referred to the Magistrate for determination.
2. You may submit an amended or revised application to the Board. Any such application will be a new application and the appropriate fee will have to be paid at the time the application is submitted.
3. You are advised to discuss any revised or amended proposal for development with the Department of Planning before resubmitting an application for a grant of a building permit.
4. All communication relating to this decision should be addressed to:

The Director of Planning
Department of Planning
Grand Turk.

FORM DOP 39
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
BUILDING REGULATIONS

NOTICE TO REMOVE OR ALTER WORK

(Section 85)

To:..... Application No:.....
..... Parcel No:.....
.....

In pursuance of powers conferred under the above mentioned Ordinance, the Board hereby requires you to pull down or remove the following work, which is not in conformity with the Ordinance or Building Regulations, within twenty-eight days of service of this notice:

.....
.....
.....

Instead you may, if you wish, comply with the following requirements to bring the work in conformity with the Ordinance or Building Regulations:

.....
.....
.....

Dated: Signed:
DIRECTOR OF PLANNING

NOTES:

1. You may appeal to the Magistrate against this notice to remove or alter work.
2. You may apply to the Magistrate to allow a longer period to remove or alter work.
- 3.. If you fail to remove or alter work as required by this notice, the Board, or persons authorised by the Board, may remove or alter the work and recover from you the expenses in doing so.
4. Any communication concerning this notice should be sent to:

The Director of Planning
Department of Planning
Grand Turk.

DEVELOPMENT PERMISSION REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
 2. Interpretation
 3. Scope
 4. Forms
 5. Form of applications
 6. Conditions for an expedited application
 7. Applicant not owner of land
 8. Advertisement of applications
 9. Representations on applications
 10. Deferral of consideration of applications
 11. Standard conditions
 12. Notification of decisions
 13. Clarification of decisions
 14. Consideration of applications to display advertisements
 15. Applications to subdivide land
 16. Fees
 17. Assessment of total estimated cost in relation to fee payable
 18. Appeals against refusals and conditions
 19. Appeals against enforcement notices
 20. Appeals against notice of revocation or modification
 21. Appeals against amenity order
 22. Appeals against assessment of total estimated cost of development
 23. Register of applications
- SCHEDULE 1: Forms
- SCHEDULE 2: Advertisement of applications
- SCHEDULE 3: Standard conditions
- SCHEDULE 4: Fees
-

DEVELOPMENT PERMISSION REGULATIONS – SECTION 112

(Legal Notices 47/1990, 30/2001, 43/2015 and 4/2017)

Commencement

[15 October 1990]

Citation

1. These Regulations may be cited as the Development Permission Regulations.

Interpretation

2. In these Regulations—

“Board member” means a member of the Board, sitting to consider the application;

“clarification” means a clarification under regulation 13 and includes an explanation or elaboration;

“exempt application” means an application under the Ordinance by an Islander for a grant of development permission to erect a dwelling house for his own occupation or occupation by a member of his family where the total estimated cost of the proposed development does not exceed \$100,000;

“meeting” means a meeting of the Board;

“notification” means a notification under regulation 12;

“the Ordinance” means the Physical Planning Ordinance;

“preservation order” means a building preservation order, or a plant preservation order and includes a draft or an interim preservation order so defined;

“strata lot” has the meaning ascribed to it by the Strata Titles Ordinance;

“total estimated cost” in relation to any application under the Ordinance for a grant of development permission means the estimated cost at current market rates of and incidental to the carrying out of the whole of the proposed development, excluding the estimated cost at current market rates of the construction of any fresh water storage tank or cistern which is comprised in the proposed development.

Scope

3. The Regulations apply to all applications for—

- (a) a grant of development permission;
- (b) permission to demolish or develop a building subject to a building preservation order;
- (c) permission to cut or remove a plant subject to a plant preservation order;
- (d) permission to extend a time limit subject to which grant of development permission has been made.

Forms

4. Schedule 1 sets out the forms to be used in respect of the various applications, decisions, requirements and other matters to facilitate the administration of the Ordinance.

Form of applications

5. (1) An application to which these Regulations apply shall be submitted to the Director on the application form set out in Schedule 1, which is appropriate to the purpose for which a grant or a permission is being sought.

(2) An application shall be accompanied by the drawings and plans as required by the relevant application form submitted under subregulation (1).

(3) An application and any accompanying drawings and plans shall be—

- (a) submitted in triplicate;
- (b) signed by the applicant or his authorised agent; and
- (c) accompanied by—
 - (i) the appropriate fees; and
 - (ii) the appropriate certificate relating to the payment or non-payment of a fee.

(4) The Director shall not accept any application which is not accompanied by the appropriate fee or which does not conform to any other of the requirements of these Regulations; and he shall immediately advise the applicant or the agent of the omission or defect and either return the application or hold it pending correction of the omission or defect.

(5) The Director may correct or advise an applicant to correct any minor defect or informality in an application or its accompanying drawings and plans at the time when the application is submitted or at any time thereafter before the application is placed on the agenda for a meeting.

(6) When the Director is satisfied that the form of the application is suitable for consideration, he shall submit it together with his report and recommendation thereon to the Board.

Conditions for an expedited application

6. The Board may consider an application for an expedited grant of development permission under the following conditions—

- (a) where the application is related to a proposed tourism or commercial development with a total construction cost of \$5,000,000 or more;
- (b) where the application is related to a proposed development required for disaster preparedness or relief;
- (c) where the application is related to a proposed development required for environmental and coastal works; or
- (d) for any other reason as may be approved by the Minister. (*Inserted by L.N. 4/2017*)

Applicant not owner of land

7. Except in the case of Crown land, where an applicant is not the owner of the land to which the application relates, he shall submit with the application a letter from the owner and, where he is a different person to the owner, the occupier stating that such person is aware that the application is being made.

Advertisement of applications

8. (1) The Director shall, in the case of applications for developments listed in Schedule 2 and may, in the case of any other application, require the applicant to advertise the application before it is considered by the Board by—

- (a) placing an advertisement in the *Gazette* and one newspaper of general circulation in the Islands or in the island where the land the subject of the application is situate; and
- (b) affixing and maintaining in place a notice in a prominent position on, or as near as possible to, the land to which the application relates, for a period of at least twenty-eight days.

(2) The advertisement and notice shall be of such a size, form and content as will enable the reader of that advertisement or notice to become aware of the proposed development or other activity on the land to which the application, the subject of the advertisement or notice relates, and of his opportunity to make representations on that application.

(3) The Director may require that an advertisement and notice be approved by him before it is published or affixed.

(4) A copy of the advertisement together with the date or dates on which it is to be published and a copy of the notice together with the date on which it is to be, or was, affixed on or near to the land shall be sent to the Director who shall file it with the application to which it relates.

(5) In respect of any application to which this regulation and Schedule 2 relates, the application shall be accompanied by a list of such owners or occupiers of land within a radius of 200 feet from the site of the proposed development who are present on the island where the proposed development is to take place and are likely to be affected by the proposed development, and evidence of service of particulars of the proposed development upon them.

Representations on applications

9. The Director shall prepare a summary of any representations and comments made on an application advertised in accordance with regulation 8 or on any other application in respect of which he has received any representations or comments and include that summary in the report on the application to which the representations or comments relate which he prepares for a meeting of the Board where that application will be considered.

Deferral of consideration of applications

10. (1) The Board may, of its own motion, or at the request of an applicant, defer the consideration of an application until—

- (a) further information is received from—
 - (i) the applicant;

- (ii) any public officer who has been requested to provide such information;
- (iii) any person who at the request of the applicant, the Minister, or the Board is preparing or has prepared a report on that application for the Minister, or the Board as appropriate;
- (b) an application form, completed in accordance with the Regulations and accompanied by drawings and plans required by the Regulations is received by the Director.

(2) The Board shall defer the consideration of an application for which a certificate pursuant to section 44 of the Ordinance is required, until such certificate is received or refused as appropriate; and if a certificate is refused, the Board shall refuse the application.

(3) Where the Director is of the opinion that an application for outline development permission cannot properly be considered without further information on the siting, design, external appearance and means of access to the proposed development he shall—

- (a) inform the Board of his opinion; and
- (b) request the applicant, in writing, to give such information about the siting, design, external appearance and means of access to the proposed development as may be specified in the written request.

(4) The Board shall not decide an application to which subregulation (3) relates until the information requested under subregulation (3)(b) has been received and a report on it has been made to the Board.

Standard conditions

11. Every grant of development permission shall be subject to any right of the applicant for that grant to appeal against the decision and shall have annexed to it the standard conditions set out in Schedule 3 appropriate to that grant.

Notification of decisions

12. (1) The Director shall within ten days of the conclusion of a meeting, on the form set out in Schedule 1, notify the applicant of the decision reached on his application.

(2) A notification may be sent by registered post or delivered by hand to the address of the applicant or his authorised agent.

(3) Time shall begin to run in respect of any decision given on an application made in accordance with these Regulations from the date of receipt by the applicant or his agent of the notification.

(4) The Board may make a grant of development permission conditional on the approval of the Director being obtained for any aspect of the application for that grant of development permission and when such a decision is made by the Board, such application should not be regarded as having been approved until that approval of the Director has been obtained and no notification of grant of development permission shall be made until that approval of the Director has been signified in writing by the Director.

(5) For the avoidance of doubt, it is hereby declared that for the purposes of legal rights and liabilities a decision is made under these Regulations when it is notified to the applicant and no form or manner of notification other than that provided for in this Regulation shall give rise to

any rights in the applicant or liabilities or duties on the Government; and any person who acts or advises any other person to act on the notification other than that provided for in this regulation does so at his own risk and shall not have any cause of action against the Government or any public officer arising out of doing so.

Clarification of decisions

13. (1) An applicant may make a request in writing to the Director for clarification of a decision or any part of a decision which has been notified to him.

(2) The Director shall in writing notify the applicant of his opinion as to the clarification of the decision referred to in subregulation (1) but no such clarification shall have the effect of modifying a notified decision or give rise to any liability on the notified decision.

(3) An applicant who is dissatisfied with the clarification provided to him under subregulation (2) may in writing request the Director to place the notified decision and the correspondence concerning its clarification as an item of business on the agenda for a meeting of the Board.

(4) The Director shall comply with a request made to him under subregulation (3).

Consideration of applications to display advertisement

14. (1) In considering any application for a grant of development permission to display an advertisement, the Board shall, in addition to the factors to which it is to have regard under the Ordinance, pay particular attention to the factors of—

- (a) the general amenity of the area where it is proposed to display an advertisement and of the appearance, quality and architectural, cultural or historical importance of any building on which an advertisement is to be placed; and
- (b) public safety having regard to the interests of the users of any road, dock, harbour or airport and whether the display of any advertisement will obscure or hinder the sight or interpretation of any public sign or advertisement concerned with the safe use of any road, dock, harbour or airport or any facility on or in those places.

(2) It is not a planning consideration and the Board accordingly shall not have regard to or take account of any moral or ethical aspects of, or whether the criminal law may be contravened by, the content of any advertisement which it is proposed to display or the message which any advertisement seeks or appears to seek to convey.

(3) A grant of development permission to display an advertisement shall operate for a period of three years from the date of the grant of permission.

Applications to subdivide land

15. (1) An application for a grant of development permission to subdivide land, shall, subject to this regulation, include details of the proposals for—

- (a) road access including construction specifications, widths, details of bridges, etc., to and within the subdivision and the joining of any such access to a public highway;
- (b) the provision of potable water to or within and the disposal of waste water and sewage from the subdivision;

- (c) the disposal of storm water from the subdivision;
- (d) the disposal of domestic waste or trade waste and effluent from the subdivision;
- (e) electric power to the subdivision;
- (f) telecommunications to the subdivision;
- (g) the maintenance of the facilities set out in paragraphs (a) to (f) from the time the process of subdivision commences until the subdivision is fully developed with buildings;
- (h) the setting aside of land for public purposes.

(2) Subregulation (1) shall not apply to an application for a grant of development permission to subdivide land, not being an application in respect of the subdivision of land into strata lots, where—

- (a) the applicant owns and occupies the land, the subject of the application;
- (b) the area of land is three acres or less; and
- (c) the land is to be subdivided into not more than six lots.

Fees

16. (1) A fee shall be paid in respect of each application for a grant of development permission other than an exempt application.

(2) The fee to be paid is the fee specified in column 2 of Schedule 4 which is appropriate to that application for a grant of development permission specified in column 1 of that Schedule.

(3) The certificate which accompanies every exempt application shall be in a form set out in Schedule 1 and shall be signed by or on behalf of the applicant.

(4) The certificate which accompanies every application in respect of which a fee is to be paid shall be in a form set out in Schedule 1 and shall be signed by or on behalf of the applicant.

(5) In the case of an application in respect of which the total estimated cost exceeds \$100,000 but it would otherwise qualify as an exempt application, the fee shall be calculated as though the total estimated cost is \$100,000 less than is in fact the case.

Assessment of total estimated cost in relation to fee payable

17. (1) On receipt of a certificate referred to in regulation 16, the Director may consult with any other public officer with the skill and experience to give a professional opinion on the matter, and if after such consultation he considers or is advised that the total estimated cost of any proposed development as stated in the certificate is inaccurate, the Director shall, taking into account such advice as he has received on the matter, assess the total estimated cost of the proposed development and—

- (a) if the Director decides that cost is greater than as stated in the certificate, the applicant shall, subject to regulation 22, pay such a sum as is required to make any underpayment or nonpayment of the appropriate fee specified in Schedule 4;

- (b) if the Director decides that cost is less than that stated in the certificate, he shall refund the amount of overpayment if it exceeds \$10.

(2) Where an assessment has been made by the Director under subregulation (1) in respect of any application, the Director shall by notice in writing served on the applicant inform him of the particulars of the assessment and of his right to appeal against the assessment under regulation 22.

Appeals against refusals and conditions

18. (1) A person who intends to appeal to the Minister against a refusal of application or the conditions subject to which an application was granted or permitted shall submit a notice in the form set out in Schedule 1 to the Director.

- (2) The appellant shall send or deliver to the Director—
 - (a) a copy of the application referred to in subregulation (1) together with any drawings or plans which accompanied that application;
 - (b) a copy of the decision made on that application together with any conditions imposed on a grant of permission which is the subject of the appeal;
 - (c) a copy of any correspondence with any public official or any Board member about the application or the decision made on the application;
 - (d) any other information required by the Minister or the Director.

Appeals against enforcement notices

19. (1) A person who intends to appeal to the Minister against an enforcement notice shall submit a notice of appeal in the form set out in Schedule 1 to the Director.

- (2) The appellant shall send or deliver to the Director—
 - (a) a copy of the enforcement notice;
 - (b) where the enforcement notice alleges that the development the subject of the notice contravenes a grant of permission or a condition subject to which a grant of permission was made, a copy of the notification of that grant of permission or condition;
 - (c) a copy of any correspondence with any public officer or any Board member about the enforcement notice;
 - (d) any other information required by the Minister or the Director.
- (3) The grounds upon which an appeal against an enforcement notice may be made are—
 - (a) the person upon whom the enforcement notice has been served is not the owner or occupier of the land on which the development is alleged to be occurring;
 - (b) the development in question is permitted development;
 - (c) the development in question is not contravening the Ordinance;
 - (d) the development in question is not contravening any grant or permission or conditions subject to which a grant of permission was made;

- (e) that having regard to the factors set out in section 60 of the Ordinance, it would be just and reasonable to discharge the enforcement notice and allow the development in question to continue,

and no other grounds shall be considered.

Appeals against notice of revocation or modification

20. (1) A person who intends to appeal to the Minister against a notice of revocation or modification shall submit a notice of appeal in the form set out in Schedule 1 to the Director.

(2) The appellant shall send or deliver to the Director—

- (a) a copy of the notice of revocation or modification;
- (b) a copy of the grant of development permission or condition therein which is being revoked or modified;
- (c) a copy of any correspondence with any public officer or any Board member about the notice of revocation or modification;
- (d) any other information required by the Minister.

Appeals against amenity order

21. (1) A person who intends to appeal to the Minister against an amenity order made by the Board shall submit a notice of appeal in the form set out in Schedule 1 to the Director.

(2) The appellant shall send or deliver to the Director—

- (a) a copy of the amenity order;
- (b) a copy of any correspondence with any public officer, any Board member or the Minister about the amenity order;
- (c) any other information required by the Minister or the Director.

Appeals against assessment of total estimated cost of development

22. (1) An applicant upon whom a notice of assessment has been served under regulation 17(2) may within fourteen days next following the date on which the notice was served appeal to the Minister against the assessment by the way of a notice in writing in duplicate served on the Director and stating the grounds of the appeal.

(2) The Director shall forward a copy of the notice of appeal to the Minister with his recommendations which shall include a list of public officers with suitable experience to decide the appeal.

(3) The Minister shall, on receipt of the notice of appeal under subregulation (1)—

- (a) allow the appeal; or
- (b) forthwith appoint a panel of public officers, to be called a panel of assessment, of whom at least one shall be a person with experience in or knowledge of the costing of development, to hear and determine the appeal.

(4) The applicant and the Director shall be entitled to make written and oral representations to the panel of assessment.

(5) The panel of assessment shall within twenty-one days of its appointment hear and determine the appeal and in determining the appeal it may vary or confirm the assessment appealed against.

(6) The decision of the panel of assessment shall be final and shall not be called into question or challenged in any legal proceedings whatsoever.

Register of applications

23. (1) A register of applications shall be kept by the Director and contain the following information, namely—

- (a) particulars of every application including the name and address of the applicant, the date of the application, the location of the development and a brief description of the development or other matters the subject of the application;
- (b) particulars of any direction or requirement given or asked for in connection with the application;
- (c) any decision of the Minister, the Board or the Director in respect of the application and the date the decision was notified to the applicant including any decision to serve a notice of revocation or modification or to serve or confirm an enforcement notice in respect of the development the subject of the application;
- (d) any decision on any appeal made in respect of the application including any appeal against an enforcement notice, a notice of revocation or modification or an assessment of the total estimated cost of development.

(2) The register shall include an index which shall be in such form as will enable a person to trace any entry in the register.

(3) The fee payable for a copy of an entry in the register shall be as prescribed in Schedule 4.

SCHEDULE 1
DEVELOPMENT PERMISSION REGULATIONS
FORMS

(Regulation 4)

ARRANGEMENT OF FORMS

FORMS

1. Application for development permission to develop land (section 42)
2. Certificate required to accompany applications for grant of development permission on other than exempt applications (regulation 16)
3. Certificate required to accompany exempt applications by or on behalf of Islanders (regulation 16)
4. Notice of assessment of total estimated cost of development (regulation 17)
5. Notice of appeal against assessment of total estimated cost of development (regulation 22)
6. Application for permission to subdivide land (section 42(c))
7. Application for permission to display an advertisement (section 42(d))
8. Request for further information (section 45)
9. Notice of deferral of consideration of application (regulation 10)
10. Grant of outline development permission (section 43)
11. Grant of detailed development permission (section 43)
12. Grant of development permission to subdivide land (section 43)
13. Grant of permission to display an advertisement (section 43)
14. Refusal of permission to develop (section 43)
15. Notice of appeal (section 97)
16. Notice to apply for grant of development permission (section 67)
17. Enforcement notice (section 58)
18. Notice of appeal against enforcement notice (regulation 19)
19. Notice of revocation or modification of grant of development permission (section 54)
20. Notice to complete development (section 50)
21. Application for extension of time to implement a grant of development permission (section 50)
22. Grant/refusal of extension of time to implement a grant of development permission (section 50(2))
23. Notice of draft building preservation order (section 69)
24. Notice of building preservation order (section 69)
25. Notice of interim building preservation order (section 70)
26. Notice of draft plant preservation order (section 71)
27. Notice of plant preservation order (section 71)
28. Notice of interim plant preservation order (section 71)
29. Application to cut a plant the subject of a plant preservation order (section 71)
30. Permission (section 71)
31. Amenity order (section 73)

32. Notice of appeal against amenity order (section 74)
33. Certificate of approval and notice of Minister's decision (section 44)
34. Notice of appeal against Minister's refusal to grant a certificate of approval (section 44)
35. Claim for compensation (section 90)
36. Notice to applicant of need for Minister's certificate of approval (section 44)

FORM DOP 1
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

APPLICATION FOR DEVELOPMENT PERMISSION

(Section 43)

This form should be completed
in *triplicate* and sent to:

The Director of Planning
Department of Planning
Grand Turk

For Official Use Only

Application No:

Parcel No:

Payment Received:

Date Received:

I/WE hereby apply for permission to carry out the development described in this application and on the attached plans and drawings.

Signed

Date

IF SIGNED BY AN AGENT,

Name of Agent

Profession/Occupation

Address

Telephone/Telex/Fax Number

NOTES:

1. "Development" is defined in section 2 of the Ordinance.
2. Failure to submit details of the proposed development as required by the instructions contained in this form is likely to lead to unnecessary delay in dealing with the application.
3. Form DOP 2 or DOP 3 and the appropriate fee must accompany this application.

It must be clearly understood that any action taken by applicants before receipt by them of the written decision is entirely at their own risk, and that in the event of operations proceedings without permission, those responsible may make themselves liable to the penalties laid down in section 103 of the Ordinance and development carried out unlawfully may be removed by order of the Board under sections 58-61 of the Ordinance.

Part 1 – General
(In this part the word “land” includes any buildings thereon)

1. Name and address of applicant (IN BLOCK LETTERS)

.....
.....

2. (i) Address or location of the land to be developed, in sufficient detail to enable it to be readily identified
.....
(ii) Block and parcel number
(iii) Area of the site (in acres/ft² or hectares/m²)

3. (i) Particulars of the applicant's interests in the land:
OWNER ☐ LESSEE ☐ PROSPECTIVE PURCHASER ☐
OTHER ☐ If other, state interest
- (ii) If not the owner, state name and address of owner. (A letter from the owner/occupier must be attached to this application stating that he/she/they is/are aware that the application is being made).
.....
.....
- (iii) If lessee, state nature of tenancy:
RESIDENTIAL ☐ COMMERCIAL ☐
INDUSTRIAL ☐ AGRICULTURAL ☐
- (iv) If the applicant is a prospective purchaser or lessee of the land, state whether the vendor or lessor has consented to the proposed development.
YES ☐ NO ☐

4. (i) Describe briefly the proposed development including the purpose for which the land and/or buildings are to be used.
-
-
-
- (ii) If they are to be used for more than one purpose, give details.
-
-
5. State the purpose for which the land and/or buildings are now used, and if used for more than one purpose, give details.
-
-
6. State if the development involves:
- (i) the formation of a new access: YES ☐ NO ☐
- (ii) the alteration of an existing access to or from a public road: YES ☐ NO ☐

Part II
Additional Information Required Only
if the Application is for the Construction of a Building

(If There is More Than One Building, Give Separate Particulars for Each)

7. Type of Application
- (i) Outline development permission. ☐
- (A grant of approval in principle which will be followed in the event of permission being granted by submission of further detailed drawings).
- (ii) Detailed development permission. ☐
- (Permission to carry out the development but not to commence construction until a Building Permit has been granted)
- (iii) Grant of Building Permit. ☐
- (Permission to commence construction of a building for which detailed development permission has been granted)

8. If the building is to be used wholly or partly for residential purposes, state:
- (i) the number of habitable rooms
 - (a) existing
 - (b) proposed
 - (ii) the total floor area of the non-residential part, if any, (in ft² or m²)
9. If the building is to be used wholly or partly for industrial or commercial use, state
- (i) the nature of the proposed industry or business, including, if for industrial use, a brief description of the type of processes to be carried on
 - (ii) the total floor area
 - (a) existing
 - (b) proposed (ft² or m²)
 - (iii) the intended provisions for the loading and unloading of vehicles.
10. Principal materials to be used.
- | Walls: | Roofs: |
|--------------------|-------------|
| (i) Material | (i) |
| (ii) Finish | (ii) |
| (iii) Colour | (iii) |
11. Means of water supply
12. Total capacity of water storage tanks (imperial gallons or litres)
- (i) existing
 - (ii) proposed
13. Means of sewage disposal
14. Estimated cost of building \$US

Part III
Additional Information Required Only
if the Application is for a Change of Use

15. How long has the present use existed?
16. If the land and building are unoccupied,
state purpose for which they were last
used and date (if known) on which they
were last occupied.
17. If the proposed use is for residential
purposes, state number of dwellings
proposed.
18. State total floor area concerned in
change of use (ft² or m²).
19. State provision for car parking:
- (i) existing
- (ii) proposed (ft² or m²)

PLANS TO BE ATTACHED TO THIS APPLICATION

An application for permission to develop land must be accompanied by three (3) sets of the plans and drawings associated therewith. To assist applicants in the preparation of such plans and drawings the appropriate standard requirements in respect of applications for particular types of development are as follows:

Type of Application	Plans Required
Outline Development Permission	Location Plan Site Plan Schematic Design
Detailed Development Permission	Location Plan Site Plan Building Plans
Building Permit	Location Plan Site Plan Detailed Building Plans

CONTENT OF PLANS

LOCATION PLAN: A map normally to a scale of 1/2500 sufficient to identify the site.

SITE PLAN: A plan based on the Register block plan normally to a scale of between 1/500 and 1/250, as appropriate, showing the following:

- (a) boundaries and dimensions of the site;
- (b) position of existing and proposed building or buildings;
- (c) proposed use of each building and of any land not built on;
- (d) area of site in acres and square feet or hectares and square metres;
- (e) main physical features of the site including roads, water tanks, trees, and ground conditions. Contours/spot elevations may be required where relevant;
- (f) a brief proposal of water supply and sewage disposal systems to be used.

For Detailed Development Permission and Building Permit:

- (g) position and width of existing and proposed means of access;
- (h) existing and proposed lines and level of the drainage system and of all sewage systems including the distance from buildings, water tanks and site boundaries, distinguishing existing from proposed works;
- (i) existing and proposed power lines, telephone line and water pipelines;
- (j) in applications other than for a house, car parking provision, landscaping proposals and location of existing trees to be retained.

BUILDING PLANS: Architectural and structural drawings showing full details of the proposed building, including plans, elevations, cross-sections and structural, mechanical, plumbing and sanitation details, as appropriate.

FORM DOP 2
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

**CERTIFICATE REQUIRED TO ACCOMPANY APPLICATIONS FOR
GRANT OF DEVELOPMENT PERMISSION**
(Regulation 16)

For Official Use Only

Application No:

Parcel No:

I, (*on behalf of)
certify that the total estimated cost of the whole of the development in respect of
which the accompanying application is made (excluding the estimated cost of the
construction of any fresh water storage or cistern) is
\$

Signed

*also give name of applicant if this form is completed by an agent.

NOTE: The Regulations provide that an application for grant of permission to
develop shall not be considered by the Board unless the appropriate
fee has been paid at the time of the submission of the application. The
fees payable are described on page 2:

Description of Applications	Fees	\$
1. Application for a grant of outline development permission to develop land including the subdivision of land into strata lots, where the estimated cost of the development—		
(a) does not exceed \$100,000	150	
(b) exceeds \$100,000 but does not exceed \$200,000	300	
(c) exceeds \$200,000 but does not exceed \$300,000	500	
(d) exceeds \$300,000 but does not exceed \$400,000	700	
(e) exceeds \$400,000 but does not exceed \$500,000	900	
(f) exceeds \$500,000 but does not exceed \$1,000,000	1,500	
(g) exceeds \$1,000,000		
(Substituted by L.N. 43/2015)		0.2% of the estimated cost of the development
2. Application for a grant of detailed development permission to develop land including the subdivision of land into strata lots where the total estimated cost—		
(a) does not exceed \$25,000	50.00	
(b) exceeds \$25,000 but does not exceed \$100,000	150.00	
(c) exceeds \$100,000 but does not exceed \$200,000	300.00	
(d) exceeds \$200,000 but does not exceed \$300,000	450.00	
(e) exceeds \$300,000 but does not exceed \$400,000	600.00	
(f) exceed \$400,000 but does not exceed \$500,000	750.00	
(g) exceeds \$500,000 but does not exceed \$1,000,000	1,500.00	
(h) exceeds \$1,000,000		0.3% of total estimated cost.
3. Application to change the use of land.	50.00	
4. Application to display an advertisement.	50.00	
5. Application to subdivide land other than into strata lots where the number of lots—		
(a) does not exceed 10	50.00	
(b) exceeds 10 but does not exceed 50	250.00	
(c) exceeds 50 but does not exceed 100	500.00	
(d) exceeds 100 but does not exceed 500	1,500.00	

- | | | |
|----|--|--|
| | (e) over 500 | 2,500.00 |
| 6. | Application for extension of time to implement grant of development permission. | 50.00 |
| 7. | Copy of an entry in the register. | 5.00 |
| 8. | Application for an official search of departmental records. | 25.00 |
| 9. | Application for minor variation of or to modify (downsize) development permission | 10% of the original application fee or \$100, whichever is greater

<i>(Inserted by L.N. 43/2015)</i> |
| 10 | Application for significant variation of or to modify (increase size) development permission | 10% of the original application fee in addition to appropriate fee for the additional cost above the original construction cost
<i>(Inserted by L.N. 43/2015)</i> |

FORM DOP 3
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

CERTIFICATE REQUIRED TO ACCOMPANY EXEMPT APPLICATIONS

BY/ON BEHALF OF ISLANDERS

(Regulation 16)

A. CERTIFICATE TO BE SIGNED BY THE ISLANDER

I, certify that:

- (1) I am an Islander
- (2) the dwelling house in respect of which the accompanying application is made by me is intended to be occupied *by me/by who is a member of my family; and
- (3) the total estimated cost of the whole of the development in respect of which the accompanying application is made (excluding the estimated cost of the construction of any fresh water storage tank or cistern) DOES NOT exceed \$100,000.

**Delete as appropriate*

Signed:

Date:

B. CERTIFICATE TO BE SIGNED ON BEHALF OF ISLANDER

I, certify that:

- (1) is an Islander
- (2) the dwelling house in respect of which the accompanying application is made on behalf of the said Islander is intended to be occupied *by him/her by who is a member of his/her family; and
- (3) the total estimated cost of the whole of the development in respect of which the accompanying application is made (excluding the estimated cost of the construction of any fresh-water storage or cistern) DOES NOT exceed \$100,000.

**Delete as appropriate*

Signed:

on behalf of:

Date:

FORM DOP 4
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

NOTICE OF ASSESSMENT OF
TOTAL ESTIMATED COST OF DEVELOPMENT
(Regulation 17)

For Official Use Only

Application No:

Parcel No:

In pursuance of powers conferred under the above-mentioned Regulations, and after taking into account such advice as I am required by the Regulations to take into account, I, HEREBY ASSESS the total estimated cost of the development in respect of which application for a grant of development permission No: has been submitted to be \$ The fee that is required to be paid in respect of the application for a grant of development permission is \$

Date:

Signed:

DIRECTOR OF PLANNING

NOTE:

You may appeal to the Minister against this notice of assessment. If you wish to appeal, you must submit your notice of appeal on form DOP 5 attached within fourteen (14) days of the date on which this notice of assessment was served.

Any communication about this notice should be addressed to:

The Director of Planning
Department of Planning
Grand Turk.

FORM DOP 5
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

**NOTICE OF APPEAL AGAINST ASSESSMENT
OF TOTAL ESTIMATED COST OF DEVELOPMENT**

(Regulation 22)

Application No:

Parcel No:

Return to:

Director of Planning
Department of Planning
Grand Turk.

I, (full name) of
(full address)

HEREBY APPEAL to the Minister against the notice of assessment of the total
estimated cost of the development in respect of which an application for a grant
of development permission No: was served on
me on by the Director of Planning.

I enclose:

- (a) a copy of the notice of assessment of the total estimated cost of
development;
- (b) a copy of the certificate DOP 3 or DOP 4 accompanying the application
for grant of development permission;
- (c) a copy of the application for grant of development permission to which the
certificate DOP 3 or DOP 4 and the notice of assessment relate;
- (d) a copy of all relevant correspondence.

The grounds of my appeal are:

.....
.....
.....
.....

Date: Signed:

Signed: Address:

Agent/Representative

FORM DOP 6
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

APPLICATION FOR PERMISSION TO SUBDIVIDE LAND

(Section 42(c))

This form should be completed in
triplicate and sent to:

The Director of Planning
Department of Planning
Grand Turk.

For Official Use Only

Application No:

Parcel No:

Payment received:

Date received:

I/WE hereby apply for permission to subdivide the land, of which particulars are
furnished hereunder.

Signed: Date:

IF SIGNED BY AN AGENT:

Name:

Profession/Occupation:

Address and Telephone/Telex/Fax No:.....

.....

NOTES:

- (1) "Subdivide" in relation to land, means to divide a parcel of land into two or more parcels.
- (2) Failure to submit full details of the proposed subdivision as required by the instructions contained in this form, is likely to lead to unnecessary delay in dealing with the application.
- (3) This application must be signed by the owner of the land or his agent, where the application is submitted on behalf of the Government, it must be signed by a public officer.

IMPORTANT

It must be clearly understood that any action taken by applicants before receipt by them of the written decision is entirely at their own risk, and that in the event of operations proceeding without permission, those responsible may make themselves liable to the penalties laid down in section 103 of the Ordinance and development carried out unlawfully may be removed by order of the Board under sections 58-61 of the Ordinance.

Particulars of Land Proposed To Be Subdivided

1. Name and address of applicant (IN BLOCK CAPITALS)
.....
.....
.....
2. (i) Address or location of the land to be subdivided in sufficient detail to enable it to be readily identified.
.....
.....
.....
(ii) Block and parcel number.
(iii) Area of site (in acres/ft² or hectares/m²).
(iv) Present use/uses of the land.
3. (i) Particulars of the applicant's interest in the land:
OWNER ☐ LESSEE ☐ PROSPECTIVE PURCHASER ☐
OTHER ☐ If other state interest
- (ii) If not the owner state name and address of owner (except in the case of Crown land a letter from the owner/occupier must be attached to this application stating that he/she/they is/are aware that the application is being made)
.....
.....
- (iii) If lessee state nature of tenancy:
RESIDENTIAL ☐ COMMERCIAL ☐ INDUSTRIAL ☐
AGRICULTURAL ☐ OTHER:
- (iv) If the applicant is a prospective purchaser or lessee of the land, state whether the vendor or lessor has consented to the proposed development. YES ☐ NO ☐
- (v) Particulars of any easement, profits, encumbrances or mortgages affecting the land.
.....

4. Description of proposed subdivision including number and use of proposed lots

5. Does the subdivision involve:
- (i) new roads YES ☐ NO ☐
- (ii) the joining of any such roads to a public highway YES ☐ NO ☐
6. State means of:
- (i) Water supply
- (ii) Sewage disposal
- (iii) Waste disposal
- (iv) Storm water disposal
7. State provision for maintenance of infrastructure
8. State provision of land for public purposes

Plans to be Attached to the Application

Plans in *triplicate*, should be submitted with this application in sufficient detail to enable the Board to determine the application. They should be drawn or reproduced to a recognised scale in a clear and intelligible manner on suitable durable material and should be signed on every sheet by the applicant or by his agent, all copies being true copies of the original plan or plans. One set of the plans submitted will be returned to the applicant.

Contents of Plans

LOCATION PLAN	A plan normally to a scale of 1/2500 sufficient to identify that site.
SITE SUBDIVISION PLAN:	A plan based on the Register block plan normally to a scale between 1/500 and 1/250 as appropriate showing the following— (i) particulars of all adjacent roads and properties sufficient to identify the site on the ground; (ii) the position, number and lot sizes of the proposed subdivision; (iii) all buildings (temporary and permanent) existing or proposed; (iv) the positions and details of any easements, rights of way, power lines, wayleaves, etc.; (v) all roads, drains, major physical features and watercourses within the area to be subdivided; (vi) all existing survey information including position of existing beacons, contours at 5ft intervals, etc.; (vii) a north point; (viii) proposed method of access to all lots and details of all roads, bridges, culverts etc., including dimensions and construction specifications. (ix) details of the provision of water supply, sewage, waste and storm water disposal, electricity and telecommunications.

FORM DOP 7
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

APPLICATION FOR PERMISSION TO DISPLAY AN ADVERTISEMENT

(Section 42(d))

This form should be completed in
triplicate and sent to:

The Director of Planning
Department of Planning
Grand Turk.

For Official Use Only

Application No:

Parcel No:

Payment received:

Date received:

I/WE hereby apply for permission to display an advertisement as described in
this application:

Signed: Date:

IF SIGNED BY AN AGENT:

Name:

Profession/Occupation:

Address and Telephone/Telex/Fax No:

.....

NOTES:

1. "Advertisement" means any word, letter, model, sign, placard, board, notice, poster, device or representation, whether illuminated or not, in the nature of and employed wholly or partly for the purposes of advertisement, announcement or direction, and includes any hoarding or similar structure used or adapted for use for the display of advertisements.
2. Failure to submit full details of the proposed advertisement as required by the instructions contained in this form, is likely to lead to unnecessary delay in dealing with the application.
3. Form DOP 2 and the appropriate fee must accompany this application.

Important

It must be clearly understood that any action taken by applicants before receipt by them of the written decision is entirely at their own risk, and that in the event of operations proceeding without permission, those responsible may make themselves liable to the penalties laid down in section 103 of the Ordinance and development carried out unlawfully may be removed by order of the Board under section 58-61 of the Ordinance.

Particulars of Advertisement	
1.	Name and address of applicant (IN BLOCK CAPITALS)
2.	(i) Address or location of the site where the advertisement is to be displayed (ii) Block and parcel number
3.	(i) Particulars of the applicant's interest in the land OWNER ☐ LESSEE ☐ PROSPECTIVE ☐ PURCHASER OTHER ☐ If other state interest (ii) If not the owner, state name and address of owner (except in case of Crown land, a letter from the owner/ occupier must be attached to this application stating that he/she/they is/are aware that the application is being made) (iii) If lessee, state nature of tenancy: RESIDENTIAL ☐ COMMERCIAL ☐ AGRICULTURAL ☐ INDUSTRIAL ☐ (iv) If the applicant is a prospective purchaser or lessee of the land, state whether the vendor or lessor has consented to the proposed development YES ☐ NO ☐

4. Details of proposed advertisement

- (i) Materials of construction
- (ii) Method of display (e.g. free standing, fixed to building, poster, hoarding, sky sign, etc.)
- (iii) Illuminated YES ☐ NO ☐
- (iv) Flashing YES ☐ NO ☐
- If YES state period
- Stationary YES ☐ NO ☐
- (v) What precautions are to be taken to prevent radio interference
- (vi) Colour(s) of advertisement
- (vii) Maximum height above ground
- Minimum height above ground
- (viii) Dimensions
- (ix) Double sided YES ☐ NO ☐
- (x) Method of fixing
- (xi) Period of display (cannot exceed three years)
- (xii) List any existing advertisements on the site or building
- (xiii) Any further information

Plans to be attached to this Application

Drawings in *triplicate* should be submitted with this application in sufficient detail to enable the Board to determine the application. They should be drawn or reproduced to a recognised scale in a clear and intelligible manner on suitable durable material, and should be signed on every sheet by the applicant or his agent, all copies being true copies of the original. One set of the drawings submitted will be returned to the applicant.

Contents of Plans

- LOCATION PLAN: A plan normally to a scale of 1/2500 sufficient to identify the site.
- SITE PLAN: A plan based on the Register block plan normally to a scale between 1/500 and 1/250 showing the position of the advertisement in relation to existing buildings, adjoining properties, roads and site features.
- DETAIL PLANS: Showing:
- (i) Full details of advertisement showing design, wording, colours, construction and method of fixing.
 - (ii) Elevations (and/or photographs) of the site or building showing clearly the position of the proposed advertisement and all existing advertisements.
 - (iii) Any further information, including sections of buildings, structural details etc., to describe the development, or as may be required by the Board in order to determine the application.
-

FORM DOP 8
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

REQUEST FOR FURTHER INFORMATION

(Section 45)

To:

.....

Your planning application dated is acknowledged.

Our Reference No:

Please supply the following additional information:

.....

.....

.....

.....

To enable the application to be dealt with promptly, this information should be supplied as soon as possible, but in any event by (date).

Your plans are returned herewith/have been retained in this Office.

Date:

Director of Planning
Department of Planning
Grand Turk

To whom any communication concerning this notice should be addressed.

FORM DOP 9
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

NOTICE OF DEFERRAL OF CONSIDERATION OF APPLICATION
(Regulation 10)

To: Application No:
..... Parcel No:

Your planning application dated was considered
by the Board at its meeting on but was deferred
for the following reason(s):

.....
.....
.....
.....

Your application will be given further consideration when the matter(s) specified
above have been satisfactorily dealt with and your application and/or plans and
drawings amended or revised as required.

Date:
.....
Director of Planning
Department of Planning
Grand Turk.

FORM DOP 10

TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

GRANT OF OUTLINE DEVELOPMENT PERMISSION

(Section 43)

Application No: Block & Parcel No:

To:

In pursuance of powers conferred under the above mentioned Ordinance, the Board hereby GRANTS in accordance with the terms and conditions authorised by the Ordinance, approval in principle to undertake the following development:

.....
as described in your application for a grant of outline development permission dated and in the plans and drawings attached thereto, subject to compliance with the relevant statutory provisions and with the following conditions:

1. The submission to and approval by the Board of full details of the development.
2. See Notes 1 and 2

The reason(s) for the imposition of the condition(s) specified (or attached) is/are:
One copy of the application and the accompanying plans and drawings are returned with this grant.

Date: Signed:

DIRECTOR OF PLANNING

NOTES:

1. An outline development permission means a development permission granted on the basis of an application for outline development permission, which gives approval in principle to the development the subject of the application for outline development permission, but does not of itself permit any development to be commenced. See section 42(a) Physical Planning Ordinance.
2. An application for detailed development permission must be submitted to the Director of Planning within one year of the date of notification of this Grant, failing which, this Grant will lapse and cease to have any effect. You may however ask for an extension of that one year period, and if it is granted, this Grant will remain valid, and effective for the period of the extension. See section 50 Physical Planning Ordinance.

All communications relating to this decision should be addressed to:

The Director of Planning
Department of Planning
Grand Turk.

FORM DOP 11
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

GRANT OF DETAILED DEVELOPMENT PERMISSION

(Section 43)

Application No: Block & Parcel No:

To:

In pursuance of powers conferred under the above mentioned Ordinance, the Board hereby GRANTS in accordance with the terms and conditions authorised by the Ordinance, detailed development permission to undertake the following development:

.....
more particularly described in your application for a grant of detailed development permission dated and in the plans and drawings attached thereto, subject to compliance with the relevant statutory provisions and with the following conditions:

1. See Notes 2, 3 and 4 below.

The reason(s) for the imposition of the condition(s) specified is/are attached.

One copy of the application and the accompanying plans and drawings are returned with the Grant.

Dated:

DIRECTOR OF PLANNING

NOTES:

1. You may appeal to the Minister against the conditions imposed on this Grant of detailed development permission. Any appeal must be made on the appropriate form within twenty-eight days of the date of notification of this Grant.
2. This grant of detailed development permission is valid for three years from the date of notification. If, within that period of three years, you have not commenced the development for which you have obtained this Grant of detailed development permission, the grant lapses and ceases to have effect. You may, however, before the end of the period of the three years, seek an extension of the period from the Board. The fee for applying for an extension is \$50. See section 50, Physical Planning Ordinance.

3. If the period of three years has passed and you wish to renew your application, you may do so by submitting a new application and paying the appropriate fee for that application. Any new application will be considered on its merits as an application separate and different from any previous application and the Board will have the power to reject the application or impose such conditions as it thinks fit on such an application irrespective of whether they were imposed on a previous application for a grant of detailed development permission for the same development.
4. This grant of detailed development permission does not by itself permit construction to take place unless this grant of detailed development permission is accompanied by a Building Permit issued by the Director of Planning. See section 81 Physical Planning Ordinance.
5. Any communication concerning this grant should be addressed to:

The Director of Planning
Department of Planning
Grand Turk.

FORM DOP 12
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

GRANT OF DEVELOPMENT PERMISSION TO SUBDIVIDE LAND

(Section 43)

Application No: Parcel No:

To:

In pursuance of powers conferred under the above mentioned Ordinance, the Board hereby GRANTS, in accordance with the terms and conditions authorised by the Ordinance, permission to subdivide land as follows:

.....
as described in your application for a grant of permission to subdivide land dated and in the plans and drawings attached thereto, subject to compliance with the relevant statutory provisions and with the following conditions:

1. See notes 2 & 3 below.

The reason(s) for the imposition of the condition(s) is/are:

One copy of the application and the accompanying plans and drawings.

Dated:

DIRECTOR OF PLANNING

NOTES:

1. You may appeal to the Minister against the conditions imposed on this grant of permission to subdivide land. Any appeal must be made on the appropriate form within twenty-eight days of the date of notification of this grant.
 2. This grant of development permission is valid for three years, from the date of notification. If within that period of three years you have not commenced the development for which you have obtained this grant of development permission, the grant lapses and ceases to have any effect. You may however before the end of the period of three years, seek an extension of the period from the Board. The fee for applying for an extension is \$50. See section 50, Physical Planning Ordinance.
 3. If the period of three years has passed and you wish to renew your application, you may do so by submitting a new application, and paying the appropriate fee for that application. Any new application will be considered on its merits as an application separate and different from any previous application and the Board will have the power to refuse the application or impose such conditions as it thinks fit on such an application irrespective of whether they were imposed on a previous application for a grant of development permission for the same development.
-

FORM DOP 13
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

GRANT OF PERMISSION TO DISPLAY AN ADVERTISEMENT

(Section 43)

Application No: Parcel No:

To:

In pursuance of powers conferred under the above mentioned Ordinance, the Board hereby GRANTS in accordance with the terms and conditions authorised by the Ordinance, permission to display an advertisement as described in the application and shown on the plans and drawings attached thereto subject to compliance with the following statutory provisions and with the following condition(s):

A. Statutory Provisions:

This permission is limited to a period of 3 years from the date of notification. If after the expiration of three years you wish to renew your application you may do so by submitting a new application and paying the appropriate fee for that application.

B. Conditions:

1. This permission unless specifically stated, shall not authorise the display of an advertisement on Crown land unless and until approval and/or licence to do so has been obtained from the relevant department of government.
2. The advertisement shall be maintained in a structurally safe and good condition, and shall not in any way be a hazard to traffic.
3. The reason(s) for the imposition of the condition(s) is/are as follows:
4. Further conditions:
 - (a) A separate approval and/or licence is required for development on Crown land.
 - (b) The advertisement shall be in the interests of amenity and public safety.

One copy of the application and the accompanying plans and drawings are returned with this grant.

Dated:

Signed:

DIRECTOR OF PLANNING

NOTES:

1. You may appeal to the Minister against the conditions set out in paragraph B above imposed on this grant. You should note however, that you may not appeal against any statutory conditions or limitations on a display of an advertisement which are provided for by the Ordinance or by the Regulations, and are set out in paragraph A above.
2. Any appeal must be made within twenty-eight days of the date of notification of this decision.
3. All communications relating to this decision should be addressed to:

The Director of Planning
Department of Planning
Grand Turk.

FORM DOP 14
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

REFUSAL OF PERMISSION TO DEVELOP

(Section 43)

Application No: Parcel No:

To:

In pursuance of powers conferred under the above-mentioned Ordinance, the BOARD hereby REFUSES to grant permission to carry out the following development:

.....
.....

as described in your application for grant of permission dated and in the plans and drawings attached thereto.

The reason(s) for the Board(s) refusal is/are as follows:

.....
.....

Dated: Signed:
DIRECTOR OF PLANNING

NOTES:

1. You may appeal to the Minister against this refusal of a grant of development permission. An appeal form is enclosed with this Notice of Refusal.
2. Any appeal must be made within twenty-eight days of the date of notification of this refusal.
3. You may submit an amended or revised application to the Board. Any such application will be a new application and the appropriate fee will have to be paid at the time the application is submitted.
4. You are advised to discuss any revised or amended proposal for development with the Department of Planning before resubmitting an application for a grant of development permission.

All communications relating to this decision should be addressed to:

The Director of Planning
Department of Planning
Grand Turk.

FORM DOP 15
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

NOTICE OF APPEAL

(Section 97)

This form should be completed in
triplicate and sent to:

The Director of Planning
Department of Planning
Grand Turk.

For Official Use Only

Application No:

Parcel No:

I (full name in BLOCK LETTERS)

of (full address)

HEREBY APPEAL to the Minister against the decision of the Board to:

- ☐ refuse a grant of development permission for the development as described below;
- ☐ grant development permission for the development as described below, subject to the below conditions;
- ☐ revoke/modify a grant of development permission as described below.

Particulars of the Appeal

Description and situation of the land or building to which the appeal relates:

.....
.....
.....

Description of the *development/*construction

.....
.....

Precise grounds of appeal (continue on separate sheet if necessary)

.....
.....
.....

Date of Board's decision:

**Strike out inappropriate words*

I enclose

- *(a) a copy of the application for a grant of development permission in respect of the development;
- *(b) a copy of all relevant plans and drawings and relevant information submitted to the Board in respect of the application;
- *(c) a copy of the Notice of the relevant correspondence with the Director of Planning.

**Delete whichever is inapplicable.*

Date:

Signed:

Appellant

Signed:

Agent/Representative (if any)

Address:.....

.....

.....

(for correspondence concerning this appeal).

FORM DOP 16
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

**NOTICE TO APPLY FOR
GRANT OF DEVELOPMENT PERMISSION**
(Section 67)

To: Application No:
..... Parcel No:
.....

1. In pursuance of powers conferred under the above-mentioned Ordinance I am satisfied that the development described below is unauthorised development and you are liable to have an enforcement notice served on you requiring you to cease that development.
2. You may apply for a grant of development permission in respect of the development described below and I accordingly HEREBY SERVE this notice on you to require you to apply for a grant of development permission in respect of the development described below.
3. Failure to apply for a grant of development permission within twenty-eight days of the date of service of this notice may result in an enforcement notice being served on you and your becoming liable to the penalties set out in section 103 of the Ordinance.

Brief description of the above development to which the notice relates and the location of the land on which the development is being carried out.

Dated: Signed:
DIRECTOR OF PLANNING

NOTES:

You may obtain the appropriate forms for an application for a grant of development permission from the Department of Planning.

Any communications about this notice should be sent to:

The Director of Planning
Department of Planning
Grand Turk.

FORM DOP 17

TURKS AND CAICOS ISLANDS

PHYSICAL PLANNING ORDINANCE

DEVELOPMENT PERMISSION REGULATIONS

ENFORCEMENT NOTICE*(Section 58)*

To: Date of coming into Effect:

..... File Ref. No:

.....

1. Name and address of owners of the land on which unauthorised development is, or has been, taking place:

2. Name and address of every known occupier of the land on which unauthorised development is, or has been, taking place:

3. Nature of the unauthorised development and approximate date of its commencement:

4. Steps to be taken to rectify the unauthorised development:

5. Time by which steps set out in 4 above must be taken:

6. Right of the person(s) on whom an enforcement notice is served:

You may:

- (a) seek a reconsideration of the notice from the Board within twenty-eight days of the date of service of the notice;
- (b) appeal to the Minister against a decision of the Board to confirm the service of the notice.

NOTE: Your attention is directed to FORM DOP 18 available from the Department of Planning, which sets out what you must do if you wish to exercise your right to appeal.

Dated: Signed:

DIRECTOR OF PLANNING

NOTES:

1. This enforcement notice is issued with the consent of the Minister.
2. “Unauthorised development” means any development for which a grant of development permission has not been obtained and which is not permitted development authorised under section 41(2).
3. If under 6 above you apply for reconsideration or appeal, this enforcement notice shall be suspended pending the final determination of the application.
4. The penalties for non-compliance with an enforcement notice go up to a fine of \$10,000 or six months’ imprisonment together with a fine of \$100 for every day after the initial conviction that the notice is not complied with.
5. If you do not comply with an enforcement notice, the Board is empowered by law to authorise the Director, with such assistance as may be necessary to enter your land and take any necessary action to rectify the unauthorised development and claim the costs of doing so from you.
6. Any communication about this notice should be addressed to:

The Director of Planning
Department of Planning
Grand Turk.

FORM DOP 18
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

NOTICE OF APPEAL AGAINST ENFORCEMENT NOTICE

(Regulation 19)

To: Director of Planning
Department of Planning
Grand Turk.

For Official Use Only

Application No:

Parcel No:

I (full name)

of (full address)

HEREBY APPEAL to the Minister against the enforcement notice served on me
on by the Director of Planning (File Ref.
No:) and confirmed on
..... by the Board.

I enclose:

- *(a) a copy of the enforcement notice;
- *(b) a copy of the grant of development permission relating to the
development in respect of which the enforcement notice has been
served;
- *(c) a copy of all relevant correspondence with the Director of Planning
about the enforcement notice.

** Delete whichever is inapplicable.*

The grounds of my appeal are:

- ☐ (a) I am not the owner of the land on which the development, the subject of the enforcement notice, is taking place;
- ☐ (b) I am not the occupier of the land on which the development, the subject of the enforcement notice, is taking place;
- ☐ (c) The development which is taking place is permitted development;
- ☐ (d) The development which is taking place is not contravening the Ordinance;
- ☐ (e) The development which is taking place is not contravening any term or condition subject to which a grant of development permission was made to carry out the development;
- ☐ (f) It would be just and reasonable to allow the development to continue;
- ☐ (g) I am a purchaser/prospective purchaser of land as specified in section 64 of the Ordinance, served notice under that section, and did not receive notification of the breach within the time limit specified.

Tick (✓) the ground(s) of appeal on which you intend to rely.

NOTE:

Only these grounds of appeal may be put forward. Any other grounds will be ignored. Regulation 19.

Further details of the grounds of appeal being relied on: *(continue on separate sheet if necessary)*

Date:

Signed:

Appellant

Signed:

Agent/Representative

Address:

.....
.....

(for correspondence concerning this appeal)

FORM DOP 19
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

NOTICE OF REVOCATION* OR MODIFICATION*
OF GRANT OF DEVELOPMENT PERMISSION
(Section 54)

To: **For Official Use Only**
..... Application No:
..... Parcel No:

In pursuance of powers conferred under the above mentioned Ordinance, the Board hereby REVOKES*/MODIFIES* the grant of development permission to

notified to you on

The reason(s) for this revocation*/modification* is*/are*:

You are hereby directed to take the following action to comply with this revocation*/modification*:

Dated: Signed:
DIRECTOR OF PLANNING

**Delete whichever is inapplicable.*

NOTES:

1. You may appeal to the Minister against this notice of revocation/modification.
 2. Any appeal must be made on the appropriate form obtained from the Department of Planning within twenty-eight days of the date of notification of this notice of revocation/modification.
 3. If you have incurred any expenses necessarily arising out of the development of land in accordance with the grant of development permission hereby revoked or modified or if you have otherwise suffered loss or damage directly attributable to the revocation or modification you may be able to claim compensation in respect of your losses. You or your agent are advised to seek further information on your possible right to compensation from the Director of Planning, and refer to Part X of the Physical Planning Ordinance.
 4. Any claim for compensation must be made within 3 months of the date of the notification of this revocation/modification so you are advised not to delay in seeking further advice on the matter.
 5. It must be clearly understood that failure to comply with this notice of revocation/modification may lead to an enforcement notice being served, in respect of the development which is taking place in contravention of this notice of revocation/modification, on those responsible, making themselves liable to the penalties laid down in section 103 of the Ordinance, and to entry on the land and enforcement action under section 58 of the Ordinance being taken in respect of the development. Your attention is therefore directed again to Note 2 above.
-

FORM DOP 20
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

NOTICE TO COMPLETE DEVELOPMENT

(Section 50)

To: **For Official Use Only**
..... Application No:
..... Parcel No:

In pursuance of powers conferred under the above mentioned Ordinance, the Board hereby DIRECTS you to complete the following development—

for which you received a grant of development permission dated
..... by

Dated: Signed:
DIRECTOR OF PLANNING

NOTES:

1. If you are unable or unlikely to complete the development by the date specified in the notice, you must apply to the Board for an extension of time, to enable you to complete the development. The appropriate form is available from the Department of Planning.
2. Any communication about this notice should be addressed to:

The Director of Planning
Department of Planning
Grand Turk.

FORM DOP 21
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

**APPLICATION FOR EXTENSION OF TIME TO
IMPLEMENT A GRANT OF DEVELOPMENT PERMISSION**

(Section 50)

This form should be completed
in *triplicate* and sent to:

The Director of Planning
Department of Planning
Grand Turk.

For Official Use Only

Application No:

Parcel No:

Date received:

I hereby apply for an extension of time to implement the grant of development
permission, for the following development—

Block & Parcel No: Application No:

Description of Development:
made to me on

My reason(s) for requiring an extension of time is/are:

.....

The extension of time I require is

.....

Type of grant of development permission: (state
whether outline, detailed, subdivision, display of advertisement).

Dated:

Signed:

Applicant

Signed:

Agent/Representative

Address:

.....

(for correspondence concerning this
application)

FORM DOP 22

TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

GRANT/REFUSAL OF EXTENSION OF TIME TO IMPLEMENT

A GRANT OF DEVELOPMENT PERMISSION

(Section 50(2))

To: **For Official Use Only**

..... Application No:

..... Parcel No:

In pursuance of powers conferred under the above mentioned Ordinance, the Board hereby Grants/Refuses an extension of to enable you to implement the grant of development permission dated for the following development:

Dated:

Signed:

DIRECTOR OF PLANNING

NOTES:

A further extension of time may be applied for using the appropriate form but no undertaking whatsoever is hereby given or implied that a further extension, if applied for, will be granted.

Any communication about this matter should be addressed to:

The Director of Planning
Department of Planning
Grand Turk.

FORM DOP 23
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

NOTICE OF DRAFT BUILDING PRESERVATION ORDER

(Section 69)

To: File Ref. No:
.....

In pursuance of powers conferred under the above mentioned Ordinance, the Board has recommended to the Minister that for architectural/landscape/cultural/historical or other similar reasons the building(s) described below is/are made the subject of a Building Preservation Order (a copy of the Order is attached), and shall not from the date of this notice be developed, demolished or altered in any way without the permission of the Board. Anyone contravening the Order may incur the penalties set out in section 103 of the Ordinance.

Dated: Signed:
DIRECTOR OF PLANNING

NOTES:

1. You may make representations to the Minister against the Building Preservation Order. If you wish to do so, you must submit these to the Director of Planning within twenty-eight days of the service of this Notice.
2. This Notice remains in full force and effect unless and until it is altered, amended or quashed. You may not therefore demolish or undertake any construction work on the building(s) to which the Order applies (other than essential repair work) even though you have made representation against the Order.
3. If you wish to seek advice on what counts as essential repair work or on any other matter connected with this Order, you should direct your communication to:

The Director of Planning
Department of Planning
Grand Turk.

FORM DOP 24

TURKS AND CAICOS ISLANDS

PHYSICAL PLANNING ORDINANCE

DEVELOPMENT PERMISSION REGULATIONS

NOTICE OF BUILDING PRESERVATION ORDER*(Section 69)*

To: File Ref. No:
.....

In pursuance of powers conferred under the above mentioned Ordinance, and after considering the report and recommendation from the Board and any representation made by you, I being of the opinion that it is desirable for architectural/landscape/ cultural/historical reasons hereby declare that the building(s) described below is/are made the subject of a Building Preservation Order (copy attached) and shall not, from the date on which this order comes into effect be developed, demolished or altered in any way without the permission of the Board. Anyone contravening this Order may incur the penalties set out in section 103 of the Ordinance.

Dated: Signed:
DIRECTOR OF PLANNING

FORM DOP 25
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

NOTICE OF INTERIM BUILDING PRESERVATION ORDER

(Section 70)

To: File Ref. No:
.....

In pursuance of powers conferred under the above mentioned Ordinance, I have recommended to the Board that for architectural/landscape/cultural/ historical reasons the building(s) described is/are made the subject of a Building Preservation Order and, in view of the urgency of the matter, and the significance of the building(s), have made an Interim Building Preservation Order (copy attached). The building(s) shall not from the date on which any Interim Order comes into effect be developed, demolished or altered in any way without the permission of the Board. Anyone contravening this Order may incur the penalties set out in section 103 of the Ordinance.

Dated: Signed:
DIRECTOR OF PLANNING

NOTES:

1. This Interim Order has been made as a matter of urgency. It has now to be considered by the Board and forwarded with recommendations to the Minister for consideration within 56 days. You will be advised if so considered and will then have the opportunity to make representations to the Minister.
2. In the meantime this Order remains in full force. You may not therefore demolish or undertake any construction work on the building(s) to which the Order applies (other than essential repair work) even though you have made representations against the Order.
3. If you wish to seek advice on what counts as essential repair work or on any other matter connected with this Order, you should direct your communication to:

The Director of Planning
Department of Planning
Grand Turk.

FORM DOP 26
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

NOTICE OF DRAFT PLANT PRESERVATION ORDER

(Section 71)

To: File Ref. No:
.....

In pursuance of powers conferred under the above mentioned Ordinance, the Board has recommended to the Minister that for amenity/landscape/environmental/scientific or other similar reasons the plant(s) described below is/are made the subject of a Plant Preservation Order (copy attached). The plant(s) shall not from the date on which this Order comes into effect be lopped, topped, trimmed, cut down, willfully damaged, destroyed or in any way interfered with. Anyone contravening this Order may incur the penalties set out in section 103 of the Ordinance.

Dated: Signed:
DIRECTOR OF PLANNING

NOTES:

1. You may make representations to the Minister against this Plant Preservation Order. If you wish to do so, you must submit these to the Director of Planning within twenty-eight days of the date of this Order coming into effect.
2. This Order remains in full force and effect unless and until it is altered, amended or quashed. You may not therefore lop, top, trim, cut down, willfully damage, destroy or in any way interfere with any plant to which this Order applies even though you have made representations against the Order.
3. If you wish to seek advice on what counts as essential repair work or on any other matter connected with this Order, you should direct your communication to:

The Director of Planning
Department of Planning
Grand Turk.

FORM DOP 27
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

NOTICE OF PLANT PRESERVATION ORDER

(Section 71)

To: File Ref. No:
.....

In pursuance of powers conferred under the above mentioned Ordinance and after considering the report and recommendation from the Board and any representations made by you, I being of the opinion that it is desirable for amenity/landscape/ environmental/scientific or other similar reasons, hereby declare that the plant(s) described below located on the land specified below is/are made the subject of a Plant Preservation Order (copy attached). The plant(s) shall not from the date on which this Order comes into effect be lopped, topped, trimmed, cut down, willfully damaged, destroyed or in any way interfered with. Anyone contravening this Order may incur the penalties set out in section 103 of the Ordinance.

Dated: Signed:
DIRECTOR OF PLANNING

FORM DOP 28
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

NOTICE OF INTERIM PLANT PRESERVATION ORDER

(Section 71)

To: File Ref. No:
.....

In pursuance of powers conferred under the above-mentioned Ordinance, I have recommended to the Board that for amenity/landscape/environmental/ scientific or other similar reasons the Plant(s) described below is/are made the subject of a Plant Preservation Order and, in view of the urgency of the matter, and the significance of the Plant(s), have decided to make an Interim Plant Preservation Order (copy attached). The Plant(s) shall not from the date on which this Order comes into effect be lopped, topped, trimmed, cut down, willfully damaged, destroyed or in any way interfered with. Anyone contravening this Order may incur the penalties set out in section 103 of the Ordinance.

Dated: Signed:
DIRECTOR OF PLANNING

NOTES:

1. This interim order has been made as a matter of urgency. It has now to be considered by the Board and forwarded with recommendations to the Minister for consideration within 56 days. You will be advised if so considered and will then have the opportunity to make representations to the Minister.
2. In the meantime, this Order remains in full force and effect. You may not therefore lop, top, trim, cut down, willfully damage, destroy or in any way interfere with any plant to which this Order applies even though you have made representations against the Order.
3. If you wish to seek advice on what counts as essential repair work or on any other matter connected with this Order, you should direct your communication to:

The Director of Planning
Department of Planning
Grand Turk.

FORM DOP 29
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

APPLICATION TO CUT A PLANT
THE SUBJECT OF A PLANT PRESERVATION ORDER
(Section 71)

This form should be completed
in *triplicate* and sent to:

For Official Use Only

File Ref. No:

The Director of Planning
Department of Planning
Grand Turk.

I, (full name)

of (full address) hereby
apply for permission to *cut/*cut down/*trim/*lop/*dig up/*take cuttings
from/*top/*(other) (*Delete whichever is inapplicable) the plant(s) described
below which is/are the subject of a Plant Preservation Order dated
.....

My reason(s) for applying for this permission is/are:

Brief description of the plant(s), the subject of this application:

Precise description of action being applied for and how it will affect the
plant(s):

Dated:

Signed:

NOTE:

This application form must be accompanied by a plan of the land
showing the precise location of the plants, the subject of the application,
and their relationship to buildings and other plants on the land and on
neighbouring land. The plan should be to a suitable scale.

FORM DOP 30

TURKS AND CAICOS ISLANDS

PHYSICAL PLANNING ORDINANCE

DEVELOPMENT PERMISSION REGULATIONS**PERMISSION/REFUSAL TO CUT A PLANT****THE SUBJECT OF A PLANT PRESERVATION ORDER***(Section 71)*

To: File Ref. No:

.....

In pursuance of powers conferred under the above mentioned Ordinance,
I hereby PERMIT/ REFUSE
the following action to be taken in respect of the plant(s) described below and
set out in your application dated subject to the conditions
specified below:

Action which may be taken:

Plant(s) in respect of which action may be taken:

Conditions subject to which action may be taken:

Dated: Signed:
DIRECTOR OF PLANNING

NOTE:

Any communication concerning this permission should be addressed to:

The Director of Planning
Department of Planning
Grand Turk.

FORM DOP 31
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

AMENITY ORDER

(Section 73)

To: File Ref. No:
.....

In pursuance of powers conferred under the above mentioned Ordinance, and
after considering the report and recommendation from the Board

I hereby
Order you to clear/screen the land and building(s) to which this Order applies as
more particularly described below, in the manner specified below by
.....

Failure to comply with this Order may result in your incurring penalties of a
fine and/or imprisonment as specified in section 103 of the Ordinance and the
work required being carried out on the land by officials to my orders.

Name and address of owner(s):

Name and address of occupier(s):

Land to which the order applies:

*Building(s) on the land which must be repaired, painted or demolished: (state which)

*Date by which work on building(s) must be done:

*Rubbish etc., on land which must be removed or destroyed: (state which)

*Place to which rubbish must be removed:

*Date by which rubbish must be removed or destroyed:

*Nature, type of location of screening required:

*Date by which screening must be erected:

**Delete whichever is inapplicable.*

Brief statement of reason(s) for the Order;

Dated:

Signed:

DIRECTOR OF PLANNING

NOTES:

1. You may appeal against this Order. If you wish to appeal you must fill in and submit the appropriate form to the Director of Planning within twenty-eight days of the date of the receipt of notification of this Order.
2. The penalties which you may incur if you fail to comply with this Order are a fine of up to \$10,000 or imprisonment for a term of up to six months or both fine and imprisonment.
3. Any communication concerning this Order should be addressed to:

The Director of Planning
Department of Planning
Grand Turk.

FORM DOP 32
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

NOTICE OF APPEAL AGAINST AMENITY ORDER

(Section 74)

To: Director of Planning
Department of Planning

For Official Use Only

File Ref. No:

I (full name)

of (full address)

HEREBY APPEAL to the Minister against the Amenity Order served on me on
.....

I Enclose:

- (a) a copy of the Amenity Order;
- (b) a copy of all relevant correspondence about the Amenity Order.

The grounds of my appeal are:

- ☐ (a) I am not the owner of the land to which the Amenity Order applies;
- ☐ (b) I am not the occupier of the *land and/or building(s) to which the Amenity Order applies;
- ☐ (c) I am not authorised by the *owner/*occupier of the *land/*building(s) to undertake any of the work specified in the Amenity Order;
- ☐ (d) I have no control over the depositing of rubbish, etc., on the land to which the Amenity Order applies;
- ☐ (e) The time by which the work specified in the Order must be completed is not reasonably sufficient for the purpose;
- ☐ (f) The work specified in the Amenity Order is unreasonable in character or extent, or is unnecessary;
- ☐ (g) The Order is unreasonable and/or discriminatory having regard to land and buildings in the immediate neighbourhood or visible to persons using the highway;

- ☐ (h) The provisions of section 73 of the Ordinance governing the making and serving of an Amenity Order were not complied with in the following respects; that is to say:
- ☐ (i) On a point of law, being—

Tick (✓) the ground(s) of appeal on which you intend to rely.

N.B. Only these grounds of appeal may be put forward. Any other grounds will be ignored. (section 74)

**Delete whichever is inapplicable.*

Date:

Signed:

Appellant

Signed:

Agent/Representative

Address:

.....

.....

(for correspondence concerning this appeal)

FORM DOP 33
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

CERTIFICATE OF APPROVAL/NOTICE OF MINISTER'S DECISION
(Section 44)

To: 1) The Physical Planning Board File Ref. No:
2) Applicant
.....
.....
.....

In pursuance of powers conferred under the above Ordinance, I
.....
HEREBY AUTHORISE, subject to the following conditions:

the Physical Planning Board to consider the development specified below:

as described in your application for grant of permission dated
..... and in the plans and drawings attached
thereto.

Dated: Signed:
MINISTER

NOTES:

1. This approval does not permit any development to take place. It is a Certificate of Approval issued by the Minister under section 44 of the Ordinance. This requires that the Board may not consider some specific developments unless accompanied by a Certificate of Approval.
2. If a Certificate of Approval is hereby granted you should immediately forward it to the Board to accompany your application for a grant of permission. This Certificate allows the Board to deal with your application. It does not mean that the Board has to approve the development. The Board will consider the application on its merits and may grant permission, subject to conditions, (although if conditions are attached to this Certificate of Approval any grant of permission is subject to those conditions), or may refuse to grant permission.
3. If a Certificate of Approval is hereby refused the Board **must** refuse to grant the application for permission to develop, as specified earlier,

if placed before it for consideration.

4. You may appeal to the Governor on the appropriate form obtainable from the Department of Planning against the Minister's refusal to grant a Certificate of Approval or by the imposition of any condition on the Certificate of Approval within 30 days after receipt of notification of the decision.
5. All communications concerning this decision should be addressed to:

The Director of Planning
Department of Planning
Grand Turk.

FORM DOP 34
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

**NOTICE OF APPEAL AGAINST MINISTER'S REFUSAL
TO GRANT A CERTIFICATE OF APPROVAL**
(Section 44)

This form should be completed
in *quadruplicate* and sent to:

The Director of Planning
Department of Planning
Grand Turk.

For Official Use Only

Application No:

Parcel No:

Print in BLOCK LETTERS:

I (full name) of
(full address)

HEREBY APPEAL to the Governor against the decision of the Minister by
notice dated to:

- * refuse to grant a Certificate of Approval for the development described below;
- * grant a Certificate of Approval for the development described below subject to conditions.

Particulars of the Appeal

Description and situation of the land or building to which the appeal relates:

Description of the development:

Precise grounds of appeal (continue on separate sheet if necessary):

I enclose:

- (a) a copy of all relevant plans, drawings and correspondence.
- (b) a copy of the Notice of the Minister's decision.

Date:

Signed:

Appellant

Signed:

Agent/Representative

Address:.....

.....

.....

(for correspondence concerning this
appeal)

FORM DOP 35
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

CLAIM FOR COMPENSATION

(Section 90)

This form should be completed
in *triplicate* and sent to:

The Director of Planning
Department of Planning
Grand Turk

For Official Use Only

Application No:

Parcel No:

N.B. A claim must be submitted within 3 months of the date upon which
notice of the decision which gives rise to the claim was served upon the
person who makes a claim.

I (full name)

of (full address)

HEREBY CLAIM COMPENSATION for loss or damage as a result of—

Tick (✓) appropriate box)

- ☐ a grant of development permission being revoked or modified;
- ☐ the Board's refusal to allow a replacement building of similar cubic
content to be erected for a building destroyed by fire, hurricane, or other
natural disaster, in the same position or as near as can be;
- ☐ the Board requiring a building to be demolished, altered, removed, or
relocated or the use of land to cease;

N.B. Only these cases give rise to a claim for compensation.

GIVE DETAILS (including nature of your interest in the land or building;
address or parcel number of site; details and date of development permission or
Board's decision; etc.)—

DETAILS OF LOSS OR DAMAGE

N.B. Give full details of the loss or damage incurred and the amount involved
and supply copies of all relevant supporting documents.

Names and addresses of all persons, including mortgagees, having an interest in
the land or building and details of such interest.

Dated: Signed:
Appellant
Signed:
Agent/Representative
Address:
.....
.....
(for correspondence concerning claim)

FORM DOP 36
TURKS AND CAICOS ISLANDS
PHYSICAL PLANNING ORDINANCE
DEVELOPMENT PERMISSION REGULATIONS

**NOTICE TO APPLICANT OF NEED FOR
MINISTER'S CERTIFICATE OF APPROVAL**
(Section 44(3))

To: (applicant) File Ref. No:
.....
.....
.....

In pursuance of powers conferred under the above-mentioned section of the Ordinance, I,
consider that the following development in respect of which application for a grant of development permission No: has been submitted:

is of a type or class which under section 44(2) should be accompanied by a Certificate of Approval. The Minister and the Board have been so informed and unless the Minister notifies you to the contrary a Certificate of Approval will be required and the grant or refusal thereof will automatically be considered. If the Minister decides that a Certificate of Approval is not required your application will be forwarded to the Board for decision in the normal way. Otherwise, the Board is unable to grant development permission unless the application before the Board is accompanied by a Certificate of Approval. No further action by you is required at this stage.

Dated: Signed:
DIRECTOR OF PLANNING
Department of Planning
Grand Turk.

SCHEDULE 2

ADVERTISEMENT OF APPLICATIONS

(Regulation 8)

1. An open-air or non-air-conditioned club, bar, dance premises or entertainment facility.
 2. Any building to be used for the accommodation of persons for financial reward.
 3. A mortuary.
 4. A cemetery.
 5. A building or a use of land for the purpose of carrying on the business of the repair of motor vehicles.
 6. A building or use of land for industrial purposes and/or service station.
 7. A laboratory or other building where scientific experiments are to be carried out.
 8. A site for the deposit of waste materials.
-

SCHEDULE 3

STANDARD CONDITIONS

(Regulation 11)

Standard Conditions save as otherwise provided in the Regulations

1. You may appeal to the Minister against any decision given by the Board under the Ordinance. Any appeal must be made on the appropriate form within twenty-eight days of the date of notification of the decision. See section 98, Physical Planning Ordinance.

SCHEDULE 4

FEES

(Regulation 16)

Description of Application	Fee \$
1. Application for a grant of outline development permission to develop land including the subdivision of land into strata lots, where the estimated cost of the development—	
(a) does not exceed \$100,000	150
(b) exceeds \$100,000 but does not exceed \$200,000	300
(c) exceeds \$200,000 but does not exceed \$300,000	500
(d) exceeds \$300,000 but does not exceed \$400,000	700
(e) exceeds \$400,000 but does not exceed \$500,000	900
(f) exceeds \$500,000 but does not exceed \$1,000,000	1,500
(g) exceeds \$1,000,000	0.2% of the estimated cost of the development (Substituted by L.N. 30/2001 and amended by L.N.43/2015)
2. Application for a grant of <i>detailed</i> development permission to develop land including the subdivision of land into strata lots where, the total estimated cost—	
(a) does not exceed \$25,000	50
(b) exceeds \$25,000 but does not exceed \$100,000	150
(c) exceeds \$100,000 but does not exceed \$200,000	300
(d) exceeds \$200,000 but does not exceed \$300,000	450
(e) exceeds \$300,000 but does not exceed \$400,000	600
(f) exceeds \$400,000 but does not exceed \$500,000	750
(g) exceeds \$500,000 but does not exceed \$1,000,000	1,500
(h) exceeds \$1,000,000	0.3% of total estimated cost (Substituted by L.N. 43/2015)
3. Application to change this use of land	50

4.	Application to display an advertisement	50
5.	Application to subdivide land other than into strata lots where the number of parcels—	
	(a) does not exceed 10	50
	(b) exceeds 10 but does not exceed 50	250
	(c) exceeds 50 but does not exceed 100	500
	(d) exceeds 100 but does not exceed 500	1,500
	(e) over 500	2,500
6.	Application for an expedited grant of development permission, which is non-refundable (<i>Inserted by L.N. 4/2017</i>)	6,000
7.	Application for extension of time to implement grant of development permission	50
8.	Copy of an entry in the register	5
9.	Application for an official search of the departmental records	25
10.	Application for minor variation of or to modify (downsize) development permission (<i>Inserted by L.N. 43/2015</i>)	10% of the original application fee or \$100, whichever is greater
11.	Application for significant variation of or to modify (increase size) development permission (<i>Inserted by L.N. 43/2015</i>)	10% of the original application fee in addition to appropriate fee for the additional cost above the original construction cost

PERMITTED DEVELOPMENT REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
 2. Interpretation
 3. Application
 4. Permitted development
 5. Directions restricting permitted development
 6. Amendment of schedules
- SCHEDULE 1: Permitted development
- SCHEDULE 2: Advertisements the display of which may be undertaken without express consent

PERMITTED DEVELOPMENT REGULATIONS – SECTION 93

(Legal Notice 44/1990)

Commencement

[15 October 1990]

Citation

1. These Regulations may be cited as the Permitted Development Regulations.

Interpretation

2. (a) In these Regulations—

“garage” means a place where motor vehicles are bought and sold, stored, repaired and maintained;

“Government building” means any building or part of a building where the business of the Government is normally carried on and includes a Government school building;

“service station” means a shop for the sale of petrol and petroleum products where motor vehicles are washed, lubricated or otherwise maintained;

“shop” means a building used for the carrying on of any retail trade or retail business wherein the primary purpose is the selling of goods by retail, and includes a building used for the purposes of a hairdresser, travel agency or for the reception of goods to be washed, cleaned or repaired but does not include a building used for the purposes of a funeral undertaker, garage, petrol filling station, service station, office, bank, grocery, betting office, restaurant or other place for the sale of prepared food, hotel or premises for the sale of intoxicating liquors for consumption on the premises, a lumber yard or premises for the sale of builders’ materials or motor vehicle parts or accessories;

“Standard Conditions” means the Standard Conditions set out in Schedule 3 of the Development Permission Regulations;

“undeveloped Crown land” means Crown land on which there are no permanent buildings and no person habitually residing and includes Crown land in respect of which engineering or mining operations have taken place or are taking place.

(b) In Schedule 2, Part I—

“business premises” means any building normally used for the carrying on of any professional, commercial or industrial undertaking, or any building (other than an institution in respect of which advertisements of Class II (c) may be displayed) normally used for the provision therein of services to members of the public or of an association, and includes public restaurants, licensed premises and places of public entertainment, but in the case of any building used principally for residential purposes includes only that part of the building normally used as business premises;

“ground level”, in relation to the display of advertisement on any building, means the ground floor level of that building;

“recreational” in relation to an institution shall not apply to any institution for the carrying on of sports, games or physical training primarily as a commercial undertaking.

Application

3. These Regulations shall apply to all land in the Islands except—

- (a) undeveloped Crown land, other than undeveloped Crown land in respect of which a lease has been granted;
- (b) land within a conservation area declared under the Ordinance;
- (c) land within any declared area under the National Parks Ordinance;
- (d) land within any declared area under the Aerodromes and Air Navigation Aids Ordinance;
- (e) land designated by any approved plan as being land where these Regulations will not apply.

Permitted development

4. (1) Subject to these Regulations, development of any class specified in column 1 of Schedule 1, is to the extent and subject to the conditions specified in column 2 of Schedule 1, and the standard conditions, permitted development and may be undertaken upon land to which these Regulations apply without the requirement to apply for or obtain a grant of development permission.

(2) Subject to these Regulations, the advertisements specified in the first part of Schedule 2 are to the extent specified and subject to the standard conditions, permitted development, and may be displayed upon land to which these Regulations apply without the requirement to apply for or obtain a grant of development permission.

(3) Nothing in this Regulation or the Schedules shall operate to permit any development:

- (a) contrary to a condition imposed in any permission granted under Part VI of the Ordinance otherwise than by these Regulations;
- (b) in Classes 1, 2 and 3, which involve the formation, laying out or material widening of a means of access to a public highway;

- (c) in Classes 1, 2, 3 and 4, which creates an obstruction to the view of persons using any road used by vehicular traffic at or near any bend, corner, junction or intersection so as to be likely to cause danger to such persons.

Directions restricting permitted development

5. (1) Where the Minister considers that it is in the interests of the proper planning and development of any land, that development of any of the classes specified in Schedule 1 or any particular development of any of those classes or any advertisements specified in Schedule 2, should not be carried out or displayed unless a grant of development permission is applied for and obtained, he may direct that the permission granted by regulation 4 shall not apply to—

- (a) all or any development of all or any of those classes or all or any advertisement specified in Schedule 2 in any particular area specified in the direction; or
 - (b) any particular development or advertisement specified in the direction, falling within any of those classes, or as the case may be, Schedule 2.
- (2) A direction made under subregulation (1) shall—
- (a) clearly specify by words and where relevant, map references, the development or advertisement and the land to which it applies;
 - (b) be published in the *Gazette*;
 - (c) be given such other publicity by the Director as will bring it to the attention of persons likely to be affected by it;
 - (d) be made available for inspection at the offices of the Department of Planning, and where such direction applies to land in an island other than Grand Turk, at the Department of Planning office, or at the District Commissioner's office if there is no such departmental office, on that Island at all reasonable hours.

Amendment of Schedules

6. The Governor may by Order published in the *Gazette* amend, add to, delete from, or modify the Schedules.

SCHEDULE 1

PERMITTED DEVELOPMENT

(Regulation 4(1))

**Column 1
DESCRIPTION OF
DEVELOPMENT**

**Column 2
CONDITIONS**

Class 1 – Temporary Buildings

The provision, erection or construction on land, in, over or under which development, other than mining, is being or about to be carried out in pursuance of a grant of the development permission under Part VI of the Ordinance, of buildings, other than buildings for residential occupation, works, plant or machinery needed temporarily in connection with those operations for the period of such operations.

1. All such buildings, works, plant or machinery shall be removed at the end of the operations in connection with which they were used and the site on which they were placed, erected or used shall be cleaned up and if it was an area of natural vegetation re-planted with vegetation similar to that existing before such buildings, works, plant or machinery were placed, erected or used on the site.

Class 2 – Temporary Uses

The use of land unoccupied by buildings for any purpose for a period not exceeding thirty days in total in any one calendar year and the erection or placing of moveable structures on that land for that use.

1. All such moveable structures shall be removed at the end of each occasion of temporary use.

Class 3 – Development by Government and other public authorities and utilities.

(a) Repairs and maintenance

The repair, improvement and maintenance of any bridge, any public dock or harbour, or buildings connected therewith, any public airport or buildings connected therewith any government buildings or other public buildings and installations.

1. No improvement shall enlarge any building to which this paragraph of this class applies beyond 5 % of the original volume of the building.

2. All development to which this paragraph of this class applies shall be notified to the Director prior to its commencement.

3. Any land that is opened up shall be reinstated to the satisfaction of the Director.

(b) Minor structures

The placing on land or the erection, construction, maintenance, improvement or other alteration of information kiosks,

1. No improvement shall enlarge any structure to which this paragraph of this class applies beyond 5 % of the original

street furniture, refuse tins, street lighting, signs and other installations, in connection with road, airport or dock and harbour safety, and such small ancillary building or works as may be required to operate any public or communal facilities.

volume of the structure.

2. All development to which this paragraph of this class applies shall be notified to the Director prior to its commencement.

Class 4 – Change of Use

Use of not more than one room in a dwelling house as a shop, office or place for the offering of professional or educational services to members of the public.

1. The area of non-residential use shall not exceed 20 % of the ground floor area of the house.

SCHEDULE 2

ADVERTISEMENTS THE DISPLAY OF WHICH MAY BE UNDERTAKEN WITHOUT EXPRESS CONSENT

(Regulation 4(2))

Specified Classes

Advertisements of the following classes may be displayed without express consent, subject to this Schedule and to the power of the Minister by notice served under regulation 5 to require application for express consent to be made—

Class I

Functional advertisements of Government departments and persons or bodies acting under statutory powers.

Advertisements employed wholly for the purposes of announcement or direction in relation to any of the functions of Government departments and persons or bodies acting under statutory powers, being advertisements which are reasonably required to be displayed in the manner in which they are displayed in order to secure the safe or efficient performance of those functions and which cannot be displayed as such, or in such manner, under this regulation relating to advertisements of any other of the specified classes.

Class II

Miscellaneous advertisements relating to premises on which they are displayed—

- (a) advertisements for the purposes of identification, direction or warning with respect to the land or buildings on which they are displayed, and not exceeding 2 sq. ft. in area in the case of any such advertisement;
- (b) advertisements relating to any person, partnership or company separately carrying on a profession, business or trade at the premises where any such advertisement not exceeding 3 sq. ft. in area, in respect of each such person, partnership or company;

- (c) advertisements relating to any institution of a religious, educational, cultural, recreational, medical, or similar character situate on the land on which any such advertisement is displayed; limited to one advertisement, not exceeding 12 sq. ft. in area, in respect of each such premises.

Class III

Certain advertisements of a temporary nature—

- (a) advertisements relating to the sale or letting of the land on which they are displayed, limited in respect of each such sale or letting, to one advertisement not exceeding 10 sq. ft. in area;
- (b) advertisements relating to the carrying out of building or similar work on the land on which they are displayed, not being land which is normally used, whether at regular intervals or otherwise, for the purpose of carrying out such work; limited to one advertisement not exceeding 10 sq. ft. in area;
- (c) advertisements announcing any local event of a religious, educational, cultural, political, social, or recreational character, and advertisements relating to any temporary matter in connection with an event or local activity of such a character, not in either case being an event or local activity promoted or carried on for commercial purposes; limited to a display of advertisements occupying an area not exceeding a total of 6 sq. ft. on any premises.

Class IV**Advertisements on business premises.**

- (1) Advertisements displayed on business premises wholly with reference to all or any of the following matters—

The business or other activity carried on, the goods sold or services provided and the name and qualifications of the person carrying on such business or activity or supplying such goods or services, on those premises:

Provided that the space which may be occupied by such advertisements on any external face of a building shall not exceed one twelfth of the overall area of that face up to a height of 11 ft. from ground level, and the area occupied by any such advertisement, however affixed to a building, shall be computed as if the said advertisement as a whole were displayed against the face of the building.

- (2) Consent deemed to be granted by virtue of these Regulations for the display of advertisements of the foregoing descriptions shall be subject to the following conditions in addition to the standard conditions—

- (a) no such advertisements, other than an advertisement of Class I, shall contain letters, figures, symbols, emblems or devices of a height exceeding 2 ft. 6 ins;
- (b) no such advertisement, other than an advertisement of Class I, shall be displayed so that the highest part of the advertisement is above 15 ft. from ground level:

Provided that an advertisement relating to the sale or letting of any part of a building above such height limit may be displayed on or below that part of the building at the lowest level above that limit at which it is reasonably practicable to display an advertisement;

- (c) no such advertisement shall be illuminated except as follows—
- (i) advertisements of Class I illuminated in a manner reasonably required to achieve the purpose of the advertisement;
 - (ii) advertisements of Class II or Class IV for the purpose of indicating that medical or similar services or supplies are available at the premises on which they are displayed, and illuminated in a manner reasonably required for that purpose.
-

