

No. S 61

**CONSTITUTION OF BRUNEI DARUSSALAM  
(Order made under Article 83(3))**

**TOWN AND COUNTRY PLANNING ORDER, 2015**

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**CONSTITUTION OF BRUNEI DARUSSALAM**  
**{Order made under Article 83(3)}**

**TOWN AND COUNTRY PLANNING ORDER, 2015**

In exercise of the power conferred by Article 83(3) of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

**PART I**

**PRELIMINARY**

**Citation, commencement and long title**

1. (1) This Order may be cited as the Town and Country Planning Order, 2015 and shall commence on a date to be appointed by the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification published in the *Gazette*.

(2) The long title of this Order is “An Order relating to planning of areas in Brunei Darussalam and control of development within Development Control Areas and for matters connected therewith and incidental thereto”.

**Interpretation**

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

“amendment”, in relation to the Master Plan, the District Plan or the Local Plan, includes any alteration or addition to or any repeal or replacement of the Master Plan, the District Plan or the Local Plan in whole or in part;

“breach of planning control” means —

(a) the carrying out of any development of land without the requisite planning permission;

(b) the carrying out of works in a conservation area without the requisite conservation permission; or

(c) any failure to comply with any condition subject to which planning permission or conservation permission was granted;

“building” includes any house, hut, shed or roofed enclosure (whether used for the purpose of human habitation or otherwise) and also any wall, fence, platform, staging, gate, post, pillar, paling, frame, hoarding, slip, dock, wharf, pier, jetty, landing-stage or bridge, or any structure or foundation connected to the foregoing;

“committee” means the committee appointed under section 7;

“conservation” means the preservation, enhancement or restoration of —

- (i) the character or appearance of; and
- (ii) the interior and exterior of any building in,

a conservation area;

“conservation area” means an area designated by the Minister in accordance with sections 5, 17 and 20;

“conservation permission” means permission referred to in section 23(4);

“consolidation permission” means permission referred to in section 23(3);

“development plans” means the Master Plan, the District Plans and the Local Plans;

“District Plan” means a land use plan for each of the administrative districts;

“enforcement notice” means a notice served under section 36;

“functions” includes powers and duties;

“information notice” has the meaning assigned to it in section 33;

“land” includes buildings, land covered by water and any estate or interest in or right over land;

“Local Plan” means a land use plan prepared for a locality;

“lot” means any piece of land entered in the Register kept under section 7 of the Land Code (Chapter 40) under a single document of title;

“Master Plan” has the meaning assigned to it by section 9;

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

“occupier” includes any person in actual occupation of land or premises or any person having the charge, management or control of the land or premises either on his own account or as an agent of another person, but does not include a lodger;

“owner”, in relation to land or premises, means —

*(a)* the owner as shown in the Register kept under section 7 of the Land Code (Chapter 40) or his legally appointed representative;

*(b)* the person for the time being receiving the rent of the land or premises whether on his own account or as trustee for any other person or as receiver (not being appointed by or on behalf of a mortgagee) or the person who would receive the rent if the land or premises were let to a tenant and includes —

- (i) a mortgagee in possession; and
- (ii) the purchaser of a newly constructed premises or part thereof in respect of which a temporary occupation permit or a certificate of statutory completion has been granted;

“planning area” means any area designated by the Planning Authority under section 8(1);

“Planning Authority”, in relation to this Order or any Part or provision of this Order, means the person or persons appointed under section 6(1) to be responsible for the operation of this Order or that Part or provision;

“planning permission” means permission referred to in section 23(2);

“public purpose” means any land needed for the purposes of carrying out the land provisions of an approved development plan and such land shall be deemed to be land for a public purpose as provided in section 3(1) of the Land Acquisition Act (Chapter 41);

“repealed Act” means the repealed Town and Country Planning (Development Control) Act (Chapter 143);

“street” includes any road, square, footway or passage, whether a thoroughfare or not, over which the public has a right of way, and also the way over any public bridge, and includes also any road, footway or passage, open court or open alley, used or intended to be used as a means of access to 2 or more holdings, whether the public has a right of way thereover or not; and all channels, drains and ditches at the side of any street shall be deemed to be part of that street;

“subdivision agreement” means any agreement whereby any person is given —

*(a)* a right, whether vested or contingent, to acquire, lease or obtain possession of any lot or piece of land, whether immediately or on the fulfilment of any condition or on the happening of any event or after the lapse of any period of time or on the exercise of any option or on payment of any sum whether by instalments or otherwise; or

*(b)* a right to erect a building on any portion of a property belonging to some other person;

“subdivision permission” means permission referred to in section 23(3);

“temporary occupation permit” means a temporary occupation permit granted under any written law;

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

“written permission” means a planning permission, subdivision permission, consolidation permission or conservation permission as the case may be, granted by the Planning Authority and includes any such permission granted or issued by electronic transmission or in a medium other than paper and authenticated in such manner as the Planning Authority may determine;

“written statement”, in relation to the Master Plan, the District Plan or the Local Plan, means that part of the Master Plan, the District Plan or the Local Plan, which includes a summary of the main proposals of the Master Plan, the District Plan or the Local Plan, with such descriptive matter as the Planning Authority considers necessary to illustrate the proposals of the Master Plan, the District Plan or the Local Plan, or as the Minister may, direct for that purpose.

### **Meaning of “development”**

3. (1) Subject to subsection (2), in this Order, unless the context otherwise requires, “development” means the carrying out of any building, engineering, mining, earthworks or other operations in, on, over or under land, or the making of any material change in the use of any building or land.

(2) The following operations or uses of land shall not be deemed for the purposes of this Order to involve development of land —

*(a)* the carrying out of works for the maintenance, improvement or other alteration of a building which do not materially affect the external appearance and do not increase the floor area;

*(b)* the carrying out by the Government, a Municipal Board or a statutory authority of any works required for maintenance or improvement of a road where such works are on land within the road boundaries;

*(c)* the carrying out by the Government, a Municipal Board or a statutory authority of any works for the purpose of laying, inspecting, repairing, or renewing any sewers, mains, pipes, cables or other apparatus including the breaking open of any road or other land for that purpose;



(d) the use of any existing building or land within the cartilage of a dwelling-house for any purpose incidental to the enjoyment thereof;

(e) the use of any land and associated buildings for the purpose of agriculture or forestry;

(f) the general development orders as prescribed by the Planning Authority; and

(g) any other class of development which the Minister may, by notification publish in the *Gazette*.

#### **Meaning of “subdivision” and “consolidation”**

4. (1) Subject to this section, in this Order, unless the context otherwise requires, “subdivision” means the division of any land or piece of state land —

(a) for the purpose of creating separate documents of title for all or any portion of such lot or land;

(b) for the purpose of parting with possessing or disposing of any portion thereof, either by way of lease, sale, gift or exchange or for the erection of a building or structure thereon;

(c) on the application to the officer in charge of the Land Office under section 21 of the Land Code (Chapter 40) for the partitioning of land,

and includes any subdivision agreement for the purpose mentioned in paragraphs (a), (b) or (c).

(2) Subject to this section, in this Order, unless the context otherwise requires, “consolidation” means the consolidation in one document of title of two or more existing documents of title, which relate to contiguous land areas.

(3) Notwithstanding subsections (1) and (2), the lease of any portion of a building for a use approved under section 24 or by a Municipal Board shall not be deemed to be subdivision or consolidation.

#### **Conservation areas**

5. (1) Where in the opinion of the Minister any area is of special architectural, historic, traditional or aesthetic interest, the Minister may designate the area as a conservation area.

(2) A conservation area may comprise —

(a) an area;

(b) a single building; or

(c) a group of buildings.

(3) The limits of any area established as a conversation area under subsection (1) may be altered by the Minister by notification published in the *Gazette* and the notification may also provide for the area to cease to be a conversation area.

## PART II

### ADMINISTRATION

#### Planning Authority

6. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification published in the *Gazette*, appoint such person or persons as he thinks fit to be the Planning Authority be responsible for the operation of this Order, either generally or for any particular Part or provision of this Order or for any particular regulations made under this Order, and may in the notification specify the extent of and manner in which that responsibility is to be exercised.

(2) The functions conferred on the Planning Authority by this Order may be performed by any officer referred to in subsection (3) who has been generally or specially authorised by the Planning Authority, and subject to his direction and control.

(3) The Planning Authority may authorise any of the following persons to perform all or any of his functions conferred by this Order —

(a) any public officer; and

(b) any officer in the employment of a statutory authority which has been approved by the Minister for the purpose.

(4) Any officer who is authorised (whether generally or specially) under subsection (2) to perform the functions of the Planning Authority under this Order shall be deemed to be —

(a) a public officer for the purposes of this Order; and

(b) a public servant within the meaning of the Penal Code (Chapter 22).

### Committees

7. The Minister may appoint such committees as he thinks fit to assist the Planning Authority in the administration and in the carrying out of his functions under this Order.

## PART III

### DEVELOPMENT PLANS

#### Designation and survey of planning area

8. (1) The Planning Authority may, with the approval of the Minister, designate any area to be a planning area for the purposes of this Order.

(2) The Planning Authority shall, in so far as he has not already done so, institute a survey of any planning area to examine the matters that may affect the development or the planning of the development, of that area, and shall in any event keep all those matters under review.

(3) Notwithstanding that the Planning Authority has carried out his duty under subsection (1), the Planning Authority may, if he thinks fits, and shall, if directed to do so by the Minister, institute a fresh survey of the planning area, examining the matters that may affect the development, or the planning of the development, of that area.

(4) Without prejudice to the generality of subsections (2) and (3), the matters to be examined and kept under review under those subsections shall include —

(a) the principal physical, economic, environmental, and social characteristics, including the principal land uses, of the area and, so far as they may be expected to affect that area, those of the neighbouring areas;

(b) the size, composition, and distribution of the population, of that area, whether resident or not;

(c) without prejudice to paragraph (a), the communications, transport system, and traffic of that area and, so far as they may be expected to affect that area, those of the neighbouring areas;

(d) any matters not mentioned in paragraphs (a), (b) or (c) that may be expected to affect any matters so mentioned;

(e) such other matters as may be prescribed or as the Minister may in any particular case specify;

(f) any changes already projected in any of the matters mentioned in paragraphs (a), (b) (c), (d) or (e) and the effect that those changes are likely to have on the development, or the planning of the development, of the area.

#### **Preparation of draft Master Plan**

9. (1) The Planning Authority shall, within such period from the commencement of this Order as the Minister may specify, prepare and submit to the Minister a report of his survey under section 8 and at the same time prepare and submit to the Minister for his approval a draft Master Plan complying with subsection (3).

(2) The report shall include an estimate of any changes likely to occur, during such period as the Minister may specify, in the matters mentioned in section 8(4) and different periods may be specified in relation to different matters.

(3) The draft Master Plan shall consist of a map and a written statement —

(a) formulating the policy and general proposals of the Planning Authority in respect of the development and use of land in the planning area, including measures for the improvement of the physical living environment, communications and the management of traffic;

(b) stating the relationship of those proposals to general proposals for the development and use of land in the neighbouring areas that may be expected to affect that area; and

(c) containing diagrams, illustrations, descriptive matter and such matters as the Planning Authority thinks fit for the purpose of explaining or illustrating the proposals in the plan, or as may be prescribed, or as may in any particular case be specified in directions given by the Minister; and the diagrams, illustrations, and descriptive matter shall be treated as forming part of the plan.

(4) In formulating his policy and general proposals under subsection (3)(a), the Planning Authority shall have regard to —

(a) the results of his survey under section 8 and by any other information that he may obtain;

(b) current policies in respect of the social and economic planning and development and the environmental protection of the nation;

(c) the resources likely to be available for the carrying out of the proposals of the Master Plan; and

(d) such other matters as the Minister may direct him to take into account.

(5) The general proposals of the Planning Authority under this section in respect of land, shall indicate any part of the planning area that he has selected for the commencement of comprehensive treatment during a prescribed period, in accordance with a District Plan and a Local Plan prepared for the selected area as a whole, by development, redevelopment, or improvement, or partly by one and partly by another method, of the whole or part of the area selected, and the nature of the treatment selected.

(6) When the Minister approves a proposal for the development and use of land under this Order, such approved proposal shall have effect and prevail over any special conditions which may be entered in the Register under section 9(5) of the Land Code (Chapter 40) in respect of any title issued under section 3 or 6 of the Code.

#### **Publicity in connection with preparation of draft Master Plan**

10. When preparing a draft Master Plan and finally determining its content for submission to the Minister, the Planning Authority may conduct such public participation or local inquiry if he thinks fit, and shall conduct such inquiry if directed to do so by the Minister.

#### **Approval or rejection of draft Master Plan by Minister**

11. (1) The Minister may, after considering a draft Master Plan submitted or resubmitted to him, in writing, either approve, in whole or in part and with or without modifications or reservations, or reject it.

(2) In considering the draft Master Plan, the Minister may take into account any matters that he thinks are relevant, whether or not they were taken into account in the draft Master Plan as submitted or resubmitted to him.

(3) Upon receiving the draft Master Plan, the Minister may, subject to any public participation or local inquiry held, consider any objections to the draft Master Plan, before determining whether or not to approve, amend or reject the Master Plan.

(4) The Minister shall, in writing, approve, amend or reject a draft Master Plan within 3 months of its submission.

#### **Amendment of Master Plan**

12. (1) At any time after the Master Plan comes into effect, the Planning Authority may submit to the Minister and shall, if so directed by the Minister, submit to him within a period specified in the direction, proposals for amendment to the Master Plan as appear to the Planning Authority to be expedient or as the Minister may direct and the proposals may relate to the whole or to part of the planning area.

(2) The Planning Authority shall, with the proposals submitted by him under this section, submit a report of the results of his review of the relevant matters under section 8 together with any other information on which the proposals are based; and sections 10 and 11 shall apply, with the necessary modifications, in relation to the proposals as they apply in relation to the Master Plan.

#### Preparation of draft District Plan

13. (1) The Planning Authority shall, within such period from the commencement of this Order as the Minister may specify, prepare and submit to the Minister a report of his survey under section 8 and at the same time prepare and submit to the Minister for his approval a draft District Plan complying with subsection (3).

(2) The report shall include an estimate of any changes likely to occur, during such period as the Minister may specify, in the matters mentioned in section 8(4) and different periods may be specified in relation to different matters.

(3) A draft District Plan shall consist of a map and a written statement —

(a) formulating the policy and strategic proposals of the Planning Authority in respect of the development and use of land in the districts, including measures for the improvement of the physical environment, communications and the management of traffic;

(b) stating the relationship of those proposals to general proposals for the development and use of land in the neighbouring areas that may be expected to affect that area; and

(c) containing diagrams, illustrations, descriptive matter and such matters as the Planning Authority thinks fit for the purpose of explaining or illustrating the proposals in the plans, or as may be prescribed, or as may in any particular case be specified in directions given by the Minister; and the diagrams, illustrations, and descriptive matter shall be treated as forming part of the plans.

(4) In formulating his policy and strategic proposals under subsection (3)(a), the Planning Authority shall have regard to —

(a) the results of his survey under section 8 and by other information that he may obtain;

(b) current policies in respect of the social and economic planning and development and the environmental protection of the nation as set in the Master Plan;

(c) the resources likely to be available for the carrying out of the proposals of the District Plan; or

(d) such other matters as the Minister may direct him to take into account.

(5) The general proposals of the Planning Authority under this section in respect of land, shall indicate any part of the planning area that he has selected for the commencement of comprehensive treatment during a prescribed period in accordance with a District Plan and a Local Plan prepared for the selected area as a whole, by development, redevelopment, or improvement, or partly by one and partly by another method, of the whole or part of the area selected, and the nature of the treatment selected.

(6) When the Minister approves a proposal for the development and use of land under this Order, such approved proposal shall have effect and prevail over any special conditions which may be entered in the Register under section 9(5) of the Land Code (Chapter 40) in respect of any title issued under section 3 or 6 of the Code.

#### **Publicity in connection with preparation of draft District Plan**

14. When preparing a draft District Plan and finally determining its content for submission to the Minister, the Planning Authority may conduct public participation or local inquiry if he thinks fit, and shall conduct such inquiry if directed to do so by the Minister.

#### **Approval or rejection of draft District Plan by Minister**

15. (1) The Minister may, after considering a draft district Plan submitted or resubmitted to him, in writing, either approve, in whole or in part and with or without modifications or reservations, or reject it.

(2) In considering the draft District Plan, the Minister may take into account any matters that he thinks are relevant, whether or not they were taken into account in the draft District Plan as submitted or resubmitted to him.

(3) Upon receiving the draft District Plan, the Minister may, subject to any public participation or local inquiry held, consider any objections to the draft District Plan, before determining whether or not to approve, amend or reject the District Plan.

(4) The Minister shall, in writing, approve, amend or reject a draft District Plan within 3 months of its submission.

#### **Amendment of District Plan**

16. (1) At any time after the District Plan comes into effect, the Planning Authority may submit to the Minister and shall, if so directed by the Minister, submit to him within a period specified in the direction, proposals for amendment to the District Plan as appear to the Planning Authority to be expedient or as the

Minister may direct and the proposals may relate to the whole or to part of the planning area.

(2) The Planning Authority shall, with the proposals submitted by him under this section, submit a report of the results of his review of the relevant matters under section 8 together with any other information on which the proposals are based; and sections 14 and 15 shall apply, with the necessary modifications, in relation to the proposals as they apply in relation to the District Plan.

(3) In the event of any conflict between provisions of the District Plan, the most recently approved provision shall prevail.

### **Preparation of draft Local Plan**

17. (1) The Planning Authority, in the course of preparing a draft Master Plan or a draft District Plan or before the Minister approves or rejects a draft Master Plan or a draft District Plan, may, if he thinks it desirable, prepare a draft Local Plan for any part of the local area.

(2) Where the Master Plan or the District Plan has come into effect, the Planning Authority shall consider, and thereafter keep under review, the desirability of preparing and, if he considers it desirable and he has not already done so, shall prepare a draft Local Plan for any part or for the whole of the local area.

(3) A draft Local Plan shall consist of maps and written statements and shall —

(a) formulate, in such details as the Planning Authority thinks fit, amongst other things, his proposals for —

- (i) the development of;
- (ii) the use of land in;
- (iii) the protection and improvement of the physical environment of;
- (iv) the preservation of the natural topography of;
- (v) the improvement of the landscape of;
- (vi) the preservation and planting of trees in;
- (vii) the making up of open spaces in;



- (viii) the preservation and enhancement of character and appearance of buildings in;
- (ix) the designation of conservation area in;
- (x) the improvement of communications in;
- (xi) the improvement of infrastructure in;
- (xii) the management of traffic in; or
- (xiii) the land readjustment scheme in,

the area of the plans;

(b) contain diagrams, illustrations, descriptive matter and such other matters as the Planning Authority thinks fit for the purpose of explaining or illustrating the proposals in the plans, or as may be prescribed, or as may in any particular case be specified in directions given by Minister; and the diagrams, illustrations, descriptive matter shall be treated as forming part of the plan.

(4) If an area is indicated as an action area in the Master Plan or the District Plan, the Planning Authority shall, if he has not already done so, after the Master Plan or the District Plan comes into effect, prepare a draft Local Plan for that area.

(5) Without prejudice to subsections (1) to (3), the Planning Authority shall, if the Minister gives him a direction in respect of a part of an area for which a draft Master Plan or a draft District Plan has been, or is in the course of being, prepared, as soon as practicable prepare for that part a draft Local Plan of such nature as may be specified in the direction.

(6) Directions under subsection (5) may be given by the Minister either before or after the draft Master Plan or the draft District Plan comes into effect.

(7) In formulating his proposals in a draft Local Plan, the Planning Authority shall secure that the proposals conform generally to the Master Plan or the District Plan as it stands for the time being, whether or not it has come into effect, and shall have regard to any information and other considerations that appear to him to be relevant, or that may be prescribed, or that the Minister may in any particular case direct him to take into account.

(8) When the Minister approves a proposal for the development and use of land under this Order, such approved proposal shall have effect and prevail over any special conditions which may be entered in the Register under section 9(5) of the Land Code (Chapter 40) in respect of any title issued under section 3 or 6 of the Code.

(9) For the purposes of subsection (4), “action area” means the area selected for the commencement of comprehensive treatment under section 9(5) or 13(5).

**Publicity in connection with preparation of draft Local Plan**

18. When preparing a draft Local Plan and finally determining its content, the Planning Authority may conduct public participation or local inquiry if he thinks fit, and shall conduct such inquiry if directed to do so by the Minister.

**Adoption of draft Local Plan**

19. (1) A draft local plan shall conform to the Master Plan and the District Plan before it is adopted.

(2) A copy of the draft Local Plan shall forthwith be submitted to the Minister for his approval in writing.

(3) The adopted Local Plan shall come into effect on publication in the *Gazette*.

**Amendment, revocation and replacement of Local Plan**

20. (1) The Planning Authority may at any time make proposals for the amendment, revocation, or replacement of a Local Plan.

(2) Without prejudice to subsection (1), the Planning Authority shall, if the Minister gives him a direction in respect of a Local Plan, prepare proposals of a kind specified in the direction, being proposals for the amendment, revocation, or replacement of the Local Plan.

(3) Proposals for amendment to the Local Plan may provide for the following in relation to the whole of the area which is the subject of the Local Plan or any part thereof —

(a) rezoning;

(b) change of the written statement in any respect;

(c) designation of conservation areas; or

(d) any other purposes therein stated.

(4) Sections 17(7), 18 and 19 shall apply in relation to the making of proposals for the amendment, revocation, or replacement of a Local Plan under this section and to any consequent amendment, revocation, or replacement of the Local Plan.

**Review of development plans**

21. (1) At least once in every 10 years, the Planning Authority shall, as and when necessary, review the Master Plan.

(2) The Planning Authority shall review other development plans at least once in every 5 years.

**Sale of development plans**

22. The Planning Authority shall make available copies of the development plans or part thereof, if he considers necessary, for inspection by and for sale at a reasonable cost to the public.

**PART IV**

**PLANNING, SUBDIVISION, CONSOLIDATION AND CONSERVATION OF LAND**

**Planning, subdivision, consolidation and conservation permission**

23. (1) The areas set out in the Schedule are Development Control Areas.

(2) No person shall, without planning permission, carry out development of any land within the Development Control area.

(3) No person shall, without subdivision or consolidation permission, subdivide or consolidate any land within Brunei Darussalam.

(4) No person shall, without conservation permission, carry out any works within a conservation area.

(5) A planning permission or conservation permission may also, where it expressly so provides, contain subdivision or consolidation permission.

(6) Any person who contravenes subsection (2), (3) or (4) is guilty of an offence and liable on conviction —

(a) to a fine not exceeding \$200,000; and

(b) in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day during which the offence continues after conviction;

(7) Where a person is convicted of an offence under subsection (6) in respect of any works on or any development, subdivision or consolidation of land without having been served previously with an enforcement notice in respect of the works, development, subdivision or consolidation, the Planning Authority may serve an order on the person directing him to remove from the land, within

14 days of the date of service of the order, all such property or materials used in connection with the offence as may be specified in the order.

**Application for permission**

24. An application for planning permission, subdivision or consolidation permission, or conservation permission shall be made to the Planning Authority in the prescribed form and manner.

**Applications determined with reference to Master Plan, District Plan or Local Plan**

25. (1) Subject to subsection (2), in determining an application for written permission, the Planning Authority shall act in conformity with the provisions of the Master Plan, any District Plan or any Local Plan whichever is applicable.

(2) Where the Minister approves, the Planning Authority need not act in accordance with subsection (1) in any of the following circumstances –

*(a)* the land to which the application relates (referred to in this subsection as the relevant land) is or will be required for any public purpose or for the provision of any utility services or infrastructural, social or transportation facility;

*(b)* the relevant land, or its locality, is the subject of a planning, transportation, conservation or preservation study being carried out by the Planning Authority or any other public authority;

*(c)* the provisions of the Master Plan, the District Plan or the Local Plan in so far as it relates to the relevant land, or its locality, is being reviewed by the Planning Authority;

*(d)* a proposal to amend the provisions of the Master Plan, the District Plan or the Local Plan in so far as it relates to the relevant land, or its locality, has been submitted to the Minister for approval under section 12, 16 or 20; or

*(e)* the Planning Authority is of the view that the development proposed in the application is incongruent with the developments on land adjoining the relevant land or other land in the locality.

(3) Where subsection (2) applies, the Planning Authority may determine the application in the manner as the Minister may approve.

(4) Subject to any regulations, the Planning Authority may –

*(a)* grant written permission, either unconditionally or subject to such conditions as he thinks fit, including those referred to in section 26; or

(b) refuse written permission.

(5) Where written permission is granted subject to conditions or is refused, the Planning Authority shall provide reasons in writing for imposing the conditions or refusing the application, as the case may be.

(6) When an application for planning permission or conservation permission is made to the Planning Authority in relation to any land, the application shall supersede any previous application for planning permission or conservation permission relating to the same land which remains undetermined.

(7) Unless otherwise approved by the Minister in writing, the planning permission or conservation permission of the Planning Authority shall be a condition precedent to the consideration by a licensing authority of any application for the issue of a licence for any purpose involving the development of land.

#### **Conditional permission**

26. (1) All or any of the following conditions may be imposed on the grant under section 25(4) of any planning permission or conservation permission in respect of any land —

(a) that the permission is granted for a specified period;

(b) that any work shall be commenced by a specified time;

(c) restrictions as to the height, design, appearance and siting of buildings;

(d) that subdivision or consolidation of the land is prohibited;

(e) that security shall be placed with such statutory authority as the Planning Authority may specify to secure compliance with the requirements of that statutory authority;

(f) that the title of any part of the land shall be transferred free from encumbrances to the State or any public authority;

(g) that such connecting structures (whether or not within the land) as the Planning Authority considers necessary are to be provided, maintained, kept open and accessible for use by the public or any occupier or other user of the land and any other land adjoining or in the locality; and

(h) that the permission shall supersede any previous permission given by the Planning Authority to the applicant notwithstanding anything in section 29.

(2) The following conditions may also be imposed on the grant of any conservation permission under section 25(4) —

(a) requirements for compliance with any conservation guidelines or any other requirements relating to conservation; or

(b) requirements for making good of any damage caused to the building by any works after the works are completed.

(3) Any person who fails to comply with any condition imposed on any planning permission or conservation permission is guilty of an offence and liable on conviction —

(a) to a fine not exceeding \$200,000; and

(b) in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

(4) Where any person fails to comply with any condition imposed on any planning permission or conservation permission, the Planning Authority may cancel the relevant permission.

(5) In this section, “connecting structure” means any underpass, subway, bridge or other structure, whether under, above or on the ground and whether for pedestrians or vehicles, linking or connecting a building with another or a building with any public facility or street, and includes escalators, travelators and other facilities.

#### **Outline permission**

27. (1) An applicant for planning permission or conservation permission may if he so desires apply in the first instance for outline permission in the manner prescribed.

(2) An application for outline permission shall be determined on the same basis as an application for planning permission or conservation permission except that the Planning Authority shall have regard only to matters relating to land use, intensity, type, form and height of the proposed development or works.

(3) Outline permission shall constitute approval in principle for the proposed development or works, but shall not authorise the carrying out of that development or works or any other development or works.

(4) Any grant of outline permission shall lapse 6 months following the date of its grant unless a longer period is specified in the outline permission or the Planning Authority otherwise directs in writing.

{5} Where subsequent to the grant of outline permission an application for planning permission or conservation permission is made during the validity period of the outline permission, the application shall be determined on the basis of the further details supplied on that subsequent application.

{6} Section 31 shall apply, with the necessary modifications, to applications made under this section as it applies to applications made under section 24.

#### **Rectification of errors and omissions**

28. (1) The validity of any written permission granted under this Part shall not be affected by any error in or omission of any particulars relating to the description of any land or boundary if the location and identity of the land are not in question.

(2) The Planning Authority may at any time rectify any such error or omission by —

(a) notification in the *Gazette*; or

(b) amending or adding to the written permission to correct any matter erroneously entered or omitted.

#### **Expiry of permissions**

29. (1) Except where the Planning Authority imposes a condition to the contrary, every planning permission and every conservation permission shall lapse if the development or works authorised by it are not completed or effected within one year of —

(a) the date of the grant of the planning permission or conservation permission, as the case may be;

(b) if an appeal is made under section 31, the date the appeal is determined or withdrawn.

(2) The Planning Authority may, in his discretion, extend any planning permission or conservation permission on such terms and for such further period as he thinks fit.

#### **Applications referred to Minister**

30. (1) The Minister may give directions to the Planning Authority requiring that all or any applications under section 24 or any class of applications specified in the direction shall be referred to him for determination instead of the Planning Authority, and every such application shall then be so referred to the Minister.

(2) The decision of the Minister on such an application shall be communicated to the Planning Authority, who shall grant or refuse written permission in accordance with the decision, and, if written permission is granted, impose such conditions as the Minister may direct and such other conditions as the Planning Authority thinks fit.

(3) The Minister shall, in determining any such application, have all the functions of the Planning Authority under this Order, and references to the Planning Authority shall accordingly be construed as references to the Minister.

(4) Any decision by the Minister under this section shall be final but any decision by the Planning Authority to impose conditions other than as directed by the Minister shall be subject to appeal under section 31 as if the conditions had been imposed by the Planning Authority under section 25(4).

(5) Where the Planning Authority intends to develop or to carry out works within a conservation area on any land belonging to him, he may be directed by the Minister to furnish to the Minister particulars relating to the development or works and the Minister may give such further directions as he thinks fit.

(6) The Minister may authorise, by notification in the *Gazette*, either generally or in relation to any specified area, any development of land or works within a conservation area subject to such conditions as may be specified in the notification.

### **Appeals to Minister**

31. (1) Where an application for written permission under section 24 is —

- (a) refused by the Planning Authority; or
- (b) granted by the Planning Authority subject to conditions,

the applicant who is aggrieved by that decision may appeal to the Minister against that decision.

(2) An appeal shall be made in such form and manner as the Planning Authority may determine and within 60 days of the date of the notification of the decision.

(3) Where an appeal is brought under this section against a decision of the Planning Authority, the Minister may dismiss or allow the appeal unconditionally or subject to such conditions as he thinks fit.

(4) The decision of the Minister on an appeal shall be communicated to the Planning Authority and the applicant.



(5) Where the Planning Authority grants written permission in accordance with the decision of the Minister on appeal, the Planning Authority may, in addition to the conditions allowed by the Minister, impose such additional conditions as the Planning Authority thinks fit which shall not be inconsistent with the decision of the Minister on appeal.

(6) The decision of the Minister shall be final.

#### **Registers and records**

32. (1) The Planning Authority shall keep a record of —

*(a)* all written permissions granted or refused by him and by the Minister under this Part; and

*(b)* all decisions made by the Minister on appeal under section 31.

(2) The record shall include all relevant plans.

(3) The record shall be made available for inspection to any member of the public on payment of such fees as may be prescribed.

(4) The record may be kept in electronic form.

### **PART V**

#### **ENFORCEMENT**

##### **Power to require information about activities on land**

33. (1) Where it appears to the Planning Authority that there may have been a breach of planning control in respect of any land, he may serve an information notice on any person who —

*(a)* is an owner or occupier of the land or has any other interest in the land; or

*(b)* is carrying out operations on the land or is using the land for any purpose.

(2) An information notice may require the person on whom it is served to give such information as may be specified in the notice relating to —

*(a)* any operations being carried out on the land, any use of the land and any other activities being carried out on the land; and

(b) any matter relating to the conditions subject to which any planning permission or conservation permission in respect of the land has been granted.

(3) In particular, an information notice may require the person on whom it is served —

(a) to state whether or not the land is being used for any purpose specified in the notice or any operations or activities specified in the notice are being or have been carried out on the land;

(b) to state when any use, operations or activities began;

(c) to give the name and address of any person known to him to use or have used the land for any purpose, or to be carrying out or have carried out any operations or activities on the land;

(d) to give any information he holds as to any planning permission or conservation permission for any use or operations or any reason for planning permission or conservation permission not being required for any use or operations;

(e) to state the nature of his interest (if any) in the land and the name and address of any other person known to him to have an interest in the land.

(4) An information notice shall be complied with by giving the required information in writing to the Planning Authority.

(5) The service of an information notice does not affect any other power exercisable in respect of any breach of planning control.

(6) In this section, any reference to operations or activities on land shall include a reference to operations or activities in, under or over the land and includes works in a conservation area.

#### **Penalties for non-compliance with information notice**

34. (1) If the person on whom an information notice is served does not comply with the notice at the end of 28 days from the day the notice was served on him, he is guilty of an offence.

(2) It shall be a defence for a person charged with an offence under subsection (1) to prove that he did not know, and could not with reasonable diligence have ascertained, the information required in the information notice.

(3) If any person —

*(a)* makes any statement purporting to comply with a requirement of an information notice which he knows to be false or misleading in a material particular; or

*(b)* recklessly makes such a statement which is false or misleading in a material particular,

he is guilty of an offence.

(4) Any person who is guilty of an offence under this section is liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding 6 months or both.

#### **Authority to enter upon land**

35. (1) The Planning Authority may, (with such assistants and workmen as are necessary), at any reasonable time, enter any land for the purpose of —

*(a)* ascertaining whether there is, or has been, a contravention of this Order;

*(b)* ascertaining whether any of the functions conferred by this Order on the Planning Authority or the Minister should or may be exercised; or

*(c)* taking any action or carrying out any work authorised or required by or under this Order.

(2) The Planning Authority may take photographs of the land and any property or material found thereon and such other steps as he may consider necessary without involving any search or seizure of any premises, thing or person.

(3) The occupier of any premises shall, if required by the Planning Authority —

*(a)* give his name and address;

*(b)* provide proof of his identity; and

*(c)* give the name and address of the owner of the premises, if known.

(4) Any person who wilfully obstructs the Planning Authority in the performance of any matter or thing which he is authorised to do by this section or fails to comply with the requirement under subsection (3) is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding 6 months or both.

(5) A police officer may arrest without warrant any person who has committed or whom he reasonably suspects to have committed an offence under subsection (4) —

(a) if the person declines to give his name and address; or

(b) if there is reason to doubt the accuracy of the name and address, if given.

(6) A person arrested under this section may be detained until his name and address are correctly ascertained except that no person so arrested shall be detained longer than is permitted by any written law and is necessary for bringing him before a court unless the order of a court for his detention is obtained.

#### **Enforcement notices**

36. (1) The Planning Authority may issue an enforcement notice where it appears to him that there has been a breach of planning control.

(2) An enforcement notice shall specify the steps the Planning Authority requires to be taken, or the activities on or use of the land he requires to cease, in order to remedy (wholly or partly) the breach of planning control or to remedy any injury to any amenities caused by the breach.

(3) An enforcement notice may, in particular, require —

(a) the alteration, demolition or removal of any building or works;

(b) the carrying out of any building works or other operations;

(c) the cessation, either wholly or to the extent specified in the notice, of any activity on or use of the land; or

(d) the removal from the land of all property and materials used in connection with the breach of planning control.

(4) Where the enforcement notice relates to unauthorised works in a conservation area, the notice may also include —

(a) a requirement to restore any building on the land to its former state;

(b) if the Planning Authority considers that such restoration is not reasonably practicable or undesirable, a requirement to execute such works as he may specify in the notice to alleviate the effect of the unauthorised works; or

*(c)* a requirement to bring any building to the state in which it would have been if the terms and conditions of any conservation permission granted in respect of the building had been complied with.

(5) An enforcement notice shall specify —

*(a)* the date on which it is to take effect, which shall not be less than 14 days from the date of service of the notice; and

*(b)* the period (which shall run from the date the enforcement notice takes effect) within which any step required by the notice shall be taken or any activity on or use of the land required by the notice to cease shall cease.

(6) A copy of an enforcement notice may be served on any one or more of the following —

*(a)* any owner of the land to which it relates;

*(b)* any occupier of that land; or

*(c)* any other person who appears to the Planning Authority to have been responsible for or participated in the breach of planning control.

(7) An enforcement notice shall continue to have effect until and to the extent that the notice is —

*(a)* superseded by a grant of planning permission or conservation permission under section 25;

*(b)* superseded by a notification under section 30(6); or

*(c)* withdrawn by the Planning Authority.

(8) Compliance with the requirements of an enforcement notice, whether in respect of —

*(a)* the completion, demolition, removal, or alteration of any building or works;

*(b)* the discontinuance of any activity on or use of the land; or

*(c)* in any other manner,

shall not discharge the notice.

(9) Except by way of an appeal to the Minister under section 37, the validity of an enforcement notice shall not be questioned in any court or proceedings whatsoever.

**Appeal to Minister against enforcement notice**

37. (1) Any person aggrieved by any requirement of an enforcement notice may, at any time before the notice takes effect, appeal to the Minister in such form and manner as the Planning Authority may determine.

(2) Where an appeal is made under this section, the Minister may —

*(a)* correct any defect, error or misdescription in the enforcement notice or vary its requirements;

*(b)* extend, subject to such conditions as he thinks fit, the period specified in the enforcement notice within which any requirement therein is to be complied;

*(c)* dismiss the appeal;

*(d)* allow the appeal unconditionally; or

*(e)* allow the appeal in whole or in part, and subject to such conditions as he thinks fit,

and the Minister may give such directions as he thinks fit to give effect to his decision on the appeal.

(3) Without prejudice to the general power of the Minister to impose conditions or give directions under subsection (2), the Minister may require that such security as he may think necessary be furnished to the Planning Authority and specify the circumstances in which the security may be forfeited by the Planning Authority.

(4) The decision of the Minister under subsections (2) and (3) shall be final.

(5) When an appeal is made to the Minister under this section, the enforcement notice shall, unless the Minister at any time otherwise directs, be of no effect pending the determination or withdrawal of the appeal.

(6) Except where the Minister decides to allow an appeal unconditionally, the enforcement notice shall take effect from the date the appellant is given notice of the decision of the Minister.

(7) Any forfeiture by the Planning Authority of any security furnished under this section shall not prejudice the institution of proceedings against any person for any offence under this Order.

**Offences of non-compliance with enforcement notice**

38. (1) Where there has been a failure to comply with any requirement of an enforcement notice in relation to any land, the person who is served with the enforcement notice is guilty of an offence.

(2) Any person who —

(a) uses land in contravention of the enforcement notice after the requirements in the notice have been complied with; or

(b) carries out any works by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with the requirements in an enforcement notice,

is, notwithstanding the earlier compliance with the notice, guilty of an offence.

(3) A person guilty of an offence under this section is liable on conviction —

(a) to a fine not exceeding \$200,000, imprisonment for a term not exceeding one year or both; and

(b) in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

**Execution and costs of works required by enforcement notice etc**

39. (1) Where —

(a) any requirement of an enforcement notice or an order under section 23(6) is not complied with within the period allowed by the notice or order as the case may be;

(b) any land is used in contravention of an enforcement notice after the requirements in the notice have been complied with; or

(c) any works have been carried out by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with the requirements of an enforcement notice,

the Planning Authority may (with such assistants and workmen as are necessary), at any time, enter the land and take any steps which are in his opinion necessary to secure compliance with the notice or order, as the case may be, including removing, detaining and disposing of any property or materials on the land.

(2) The costs or expenses incurred, directly or indirectly, by the Planning Authority in exercise of the powers conferred by subsection (1) shall be

recoverable as a civil debt from any person served with the enforcement notice or order under section 23(6), as the case may be, less such sums which are recoverable under section 40.

(3) The certificate of the Planning Authority stating the amounts of costs and expenses recoverable under subsection (2) shall be conclusive evidence of such amounts.

(4) The sums stated in the certificate of the Planning Authority under subsection (3) shall be secured as a first charge against the land and shall, subject and without prejudice to any other rights of the Government, prevail over all other estates and interests whenever created notwithstanding the provisions of any other written law relating to the registration of any interest or encumbrance over land.

#### **Removal and sale of property and materials**

40. (1) Any property or materials removed and detained by the Planning Authority in the exercise of his powers under section 39 may be sold or otherwise disposed of unless a claim is made by the person to whom the property or materials belong within 2 weeks of the removal, in which case the property or materials may, subject to subsection (2), be returned to the person to whom they belong on such terms and conditions as the Planning Authority may impose.

(2) Any property or materials which have been removed and detained by the Planning Authority under section 39 shall not be returned to the person to whom they belong except upon the person having paid all the expenses incurred, directly or indirectly, by the Planning Authority in removing and detaining the property or materials or such part of those expenses as the Planning Authority determines.

(3) Where the Planning Authority sells any property or materials under subsection (1), the Planning Authority shall be entitled to deduct from the proceeds of the sale all or any of the costs and expenses incurred, directly or indirectly, by the Planning Authority in respect of the removal, detention and sale of the property or materials and the balance, if any, shall be paid on demand to the person to whom the property or materials belong.

(4) Any proceeds of sale of property or materials under this section not claimed within 2 years of the sale shall be paid into the Consolidated Fund.

#### **Injunctions**

41. (1) Where the Planning Authority considers it necessary or expedient for any actual or apprehended breach of this Order to be restrained by injunction, the Planning Authority may apply to the High Court for an injunction, whether or not he has exercised or is proposing to exercise any of his other powers under this Part.



(2) On an application under subsection (1), the High Court need not require from the Planning Authority any undertaking in damages.

(3) On an application under subsection (1), the High Court may grant such an injunction as the Court thinks fit for the purpose of restraining the breach.

#### **Civil penalties**

42. (1) The Planning Authority may require a person to pay a penalty for the grant of any written permission for —

- (a) any development of land;
- (b) any subdivision or consolidation of land; or
- (c) any works within a conservation area,

in respect of which there appears to the Planning Authority that an offence has been committed, whether or not proceedings have been instituted against any person for an offence under section 23.

(2) Such a penalty shall not exceed —

- (a) 50 times the fee prescribed for an application for written permission, subdivision or consolidation permission, or conservation permission, as the case may be; or
- (b) \$150,000,

whichever is the lesser amount.

(3) The certificate of the Planning Authority as to the penalty to be imposed under this section shall be conclusive of the amount.

(4) No further proceedings shall be instituted or taken against any person for an offence under section 23 once the penalty has been paid.

### **PART VI**

#### **RECOVERY OF MONEYS**

##### **Recovery of money**

43. (1) Any sum payable to the Planning Authority under this Order may be recoverable by him by action as a civil debt.

(2) No proceedings for the recovery of any money payable under this Order shall be quashed or set aside in any court for want of form or procedure.

**Proceedings for recovery of money due**

44. (1) Unless otherwise expressly provided in this Order, the Planning Authority has and may exercise the following additional powers for the purpose of recovering any money due under this Order —

(a) the Planning Authority may issue a warrant of attachment and may seize by virtue thereof any movable property and crops of any person liable to pay any sum due, and may, after service of the prescribed notice, sell the same by public auction or in such manner as may be prescribed; and

(b) the Planning Authority may, by notice of sale to be served or published in the prescribed manner, declare his intention of selling, at the expiration of 3 months from the date of the notice of sale, any land belonging to the person from whom any sum is due and, if at the expiration of that period, that sum has not been paid or satisfied, the Planning Authority may sell, by public auction or otherwise, the whole of that land or such portion thereof or such interest therein as he considers sufficient for the recovery of that sum and costs.

(2) Notwithstanding subsection (1), the Planning Authority shall not proceed under subsection (1)(b) and sell the land of any person from whom any sum is due, or any portion thereof or interest therein, where there is upon the land and liable to be seized and sold under subsection (1)(a) movable property or crops belonging to the person of a value estimated by the Planning Authority to be sufficient to realise the sum required to satisfy the money due and costs.

(3) Any tenant, sub-tenant or occupier who, in order to avoid the seizure or sale of the land for non-payment of any sum due from the owner of the land, pays that sum and costs may thereafter, in the absence of any written agreement to the contrary, deduct the amount so paid by him from the rent due or to become due by him to his immediate landlord on account of the land or such part thereof as is held or occupied by him, and may retain possession thereof until that amount has been fully reimbursed to him whether by deduction from the rent or otherwise.

(4) Any tenant or sub-tenant who has reimbursed, whether by allowing a deduction from his rent or otherwise, any sub-tenant or occupier holding or occupying under him the amount so paid by the sub-tenant or occupier has a similar right to retain possession until similarly reimbursed.

(5) The receipt of the Planning Authority or of any duly authorised officer for any amount so paid by any such tenant, sub-tenant or occupier shall be deemed to be an acquittance in full for the like amount of the rent.

(6) If any land belonging to a person from whom any sum is due, or any movable property or crops that are mentioned in subsection (1)(a) or the proceeds of sale of that movable property or crops, is or are already in the custody of the law under any process of execution whereby the Planning Authority is unable to

exercise the powers vested in him by this section, the Planning Authority may notify the sheriff or the bailiff of the court concerned of the amount due, and he shall be entitled, without obtaining judgment, to be paid that amount out of the proceeds of sale of the land, movable property or crops in priority to the judgment debtor and to the judgment creditor and to any other creditor, except the Government.

(7) A certificate from the Planning Authority shall be conclusive evidence of the amount of any sum that may be due.

#### **Attachment**

45. (1) The attachment mentioned in section 44(1)(a) may be made by a person appointed for the purpose by the Planning Authority and that person shall publicly notify the attachment in the prescribed manner and shall take an inventory of the property attached.

(2) For the purpose of effecting the attachment, the person appointed under subsection (1), may break into any house or building in the day time.

(3) The person appointed under subsection (1) shall be deemed to be a public servant within the meaning of the Penal Code (Chapter 22).

#### **Application of proceeds**

46. (1) The proceeds of a sale under section 44(1) shall be applied in the first place in satisfaction of the sum due and costs.

(2) In the event of there being any surplus remaining, the Planning Authority shall, if satisfied as to the right of any person claiming the surplus, pay the surplus to that person or, if not so satisfied, shall hold the surplus in trust for the person who ultimately succeeds in due course of law in establishing his title thereto.

(3) If no title is established to that surplus at the end of 5 years after the date of the sale under section 44(1), the surplus shall be paid into the Consolidated Fund.

#### **Title conferred upon purchaser at a sale under section 44**

47. (1) The purchaser at a sale under section 44(1)(b) shall be deemed to have acquired the right or property offered for sale free from all encumbrances created over it and from all subordinate interests derived from it, except such as are expressly reserved by the Planning Authority at the time of the sale.

(2) The Planning Authority shall, by notification in the *Gazette*, notify the result of the sale and the conveyance or transfer to the purchaser of the right or property offered for sale.

**Costs of proceedings for recovery of sum due**

48. All costs and expenses incurred in the recovery of any sum due under this Order may be recovered as if they formed part of the sum due.

**Power to stop sale**

49. If any person, having any interest in any land liable to be sold at any time before the sale, tenders to the Planning Authority the sum due, the Planning Authority shall desist from all further proceedings in respect thereof.

**Application to court**

50. (1) If any person whose movable property, crops or land has been attached or offered for sale under section 44 or 45 disputes the attachment or sale, he may apply to the High Court or, when the sum due does not exceed \$1,000, to the Intermediate Courts, for an order to stay the proceedings.

(2) After hearing the Planning Authority and after making such further inquiry as is necessary, the court shall make such order as it thinks fit.

**Security to be given**

51. No application shall be entertained by the court under section 50 unless the applicant has deposited in court the amount of the sum due and costs or has given security for that sum to the satisfaction of the court.

**PART VII**

**GENERAL**

**Authentication of documents**

52. (1) Any document which —

(a) purports to bear the signature or facsimile signature of the Planning Authority or an officer authorised under section 6(2); or

(b) is or purports to be authenticated in such other manner as may be prescribed,

shall be deemed, until the contrary is proved, to have been duly prepared, issued or served by the Planning Authority.

(2) In any proceedings under this Order, the contents of any such document shall be presumed to be correct until the contrary is proved.

### **Service of documents**

53. (1) Without prejudice to subsection (2), any notice or other documents required or authorised to be served or given under this Order, and every summons issued by a court in connection with any offence under this Order, may be served or given —

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

(b) by leaving it at the usual or last known place of residence of that person, or, in a case where an address for service has been given by that person, at that address;

(c) by sending it by registered post addressed to that person at his usual or last known place of residence, or in the case where an address for service has been given by that person, at that address.

(2) Where the notice or document is required to be served on or given to a person who is the occupier of any premises comprised in any land, the notice or document shall be taken to be duly served on that person if it is addressed to that person and is affixed conspicuously to some object on the land.

(3) Any notice, document or summons sent by registered post to a person in accordance with subsection (1) shall be deemed to be duly served on or given to that person at the time when it would, in the ordinary course of post, be delivered and in proving service of the same it shall be sufficient to prove that the envelope containing the notice, document or summons was properly addressed to that person stamped and posted by registered post.

### **Exemption**

54. The Minister may, by notification published in the *Gazette*, exempt any land or lands either generally or for a specified period from the operation of all or any of the provisions of this Order.

### **Exclusion of liability**

55. Where the Planning Authority furnishes information of any provision or content of the Master Plan, the District Plan or the Local Plan or any entry in the records kept by the Planning Authority under section 32 to any person in any manner or form whatsoever, the Planning Authority and any officer authorised under section 6(2) shall not be liable for any loss or damage suffered by that person or any other person by reasons of errors or omissions of whatever nature or however caused, if such information was furnished in good faith and in the ordinary course of the discharge of the duties of the Planning Authority or the officer concerned as a delegate of the Planning Authority.

**Protection from liability**

56. No matter or thing done or omitted to be done by the Planning Authority or by any officer or person authorised by him shall subject him or such person personally to any action, liability, claim or demand whatsoever if it were done or omitted to be done in good faith for the purpose of carrying out the provisions of this Order.

**Power of Court of a Magistrate and Intermediate Courts**

57. Notwithstanding the provisions of the Criminal Procedure Code (Chapter 7), a Court of a Magistrate or an Intermediate Courts shall have power to impose the maximum penalties provided for an offence under this Order.

**Compounding of offences**

58. (1) The Planning Authority may, in his discretion, compound any offence under this Order which is prescribed as a compoundable offence by collecting from the person reasonably suspected of having committed that offence a sum not exceeding \$500.

(2) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations to prescribe the offences which may be compounded and the method and procedure thereof.

**Offences by bodies corporate**

59. (1) Where an offence under this Order which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of that body corporate or of any person who was purporting to act in any such capacity, he, as well as the body corporate, is guilty of that offence and liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of that body corporate.

**Correction of errors in register**

60. (1) The Planning Authority may at any time —

(a) correct any erroneous entry in any record, register, plan or document required to be kept or maintained under this Order; or

(b) add to the record, register, plan or document any matter which has been erroneously omitted.

{2} Any correction shall be made in such manner as to leave the erroneous matter cancelled and the correct entry clearly legible.

{3} The Planning Authority shall indicate the date on which any correction or addition is made to the record, register, plan or document.

#### **Charges, fees and penalties to be paid into Consolidated Fund**

61. (1) There shall be paid into the Consolidated Fund —

(a) all planning fees or charges collected by the Planning Authority under this Order; and

(b) subject to any agreement made between the Minister and any statutory authority referred to in section 6(3) and to any direction of the Minister, all fines, fees, charges and other moneys collected under this Order.

{2} No agreement or direction under subsection (1) shall apply to any fees, charges or other moneys which are expressly required by any provision of this Order to be paid into the Consolidated Fund.

#### **Amendment of Schedule**

62. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by order published in the *Gazette* amend the Schedule.

#### **Regulations**

63. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make such regulations as are necessary or expedient for giving effect to and carrying out the provisions of this Order, including the prescription of fees or charges of any other thing required to be or which may be prescribed under this Order, and for the due administration thereof.

{2} Without prejudice to the generality of subsection (1), the Minister may by such regulations provide for —

(a) the form and manner in which applications for planning permission, subdivision or consolidation permission, or conservation permission shall be made;

(b) the procedure of public participation and inquiries;

(c) the preservation and maintenance of buildings;

(d) use of classes;

(e) the reservation of land for public purposes;

(f) the control of advertisements;

(g) the manner in which appeals may be made and determined under this Order and the information to be supplied by the Planning Authority in connection therewith.

**Repeal of Chapter 143, transitional and saving provisions**

64. (1) Subject to this section, the Town and Country Planning (Development Control) Act (Chapter 143) is repealed.

(2) Any subsidiary legislation, declaration or appointment made and any thing done under the repealed Act and in force immediately prior to the commencement of this Order shall, so far as it is not inconsistent with the provisions of this Order, continue to be in force as if made or done under this Order until it is amended, revoked or repealed under this Order.

(3) Until otherwise amended under this Order and subject to the provisions of this Order, any reference in the subsidiary legislation made under the repealed Town and Country Planning (Development Control) Act (Chapter 143) to —

(a) the Competent Authority, shall be construed as reference to the Planning Authority;

(b) the Development Planning Scheme, shall be construed as reference to development plans.

(4) Any permission, approval, decision, notice, warrant, order, guidelines or other document prepared, made, granted, issued and any act or thing done or given under or pursuant to the repealed Act and valid immediately prior to the commencement of this Order shall be deemed to have been prepared, made, granted, issued, done or given under or pursuant to the corresponding provisions of this Order and shall continue to have effect accordingly.

(5) Any map, plan, record or register prepared, made or kept under or pursuant to the repealed Act shall be deemed to have been prepared, made or kept under or pursuant to the corresponding provisions of this Order and shall continue to have effect accordingly.

(6) Any breach, contravention or non-compliance of the repealed Act shall be deemed to be a breach, contravention or non-compliance of the corresponding provisions of this Order and the powers conferred on the Planning Authority by this Order may be exercised in respect of any such breach, contravention or non-compliance.



(7) Any enforcement process or proceedings commenced or pending immediately prior to the commencement of this Order in connection with any breach, contravention or non-compliance of or under the repealed Act may be continued and disposed of under the repealed Act as if this Order has not been made.

(8) Any application for permission made to the Competent Authority under section 6 of the repealed Act and any appeal made to the Minister under section 8 of the repealed Act which is pending immediately before the commencement of this Order shall be deemed to have been made and shall be dealt with under the corresponding provisions of this Order.

(9) Any reference in any written law to the repealed Act or any provision thereof shall, as from the commencement of this Order, be a reference to this Order or the corresponding provision of this Order.

**SCHEDULE**  
(section 23(1))

**DEVELOPMENT CONTROL AREAS**

Areas within Brunei Darussalam excluding any area declared to be a Municipal Board area under section 3(1) of the Municipal Boards Act (Chapter 57).

Made this 23rd. day of Zuhijjah, 1436 Hijriah corresponding to the 7th. day of October, 2015 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

**HIS MAJESTY**  
**THE SULTAN AND YANG DI-PERTUAN**  
**BRUNEI DARUSSALAM**