



*Building preservation
order sec: 23, 24.*

SAINT VINCENT AND THE GRENADINES

ACT NO. 45 OF 1992

I ASSENT

[L.S.]

DAVIDE. JACK
Governor-General
15th July, 1992

AN ACT to enable the orderly and progressive development of land and the proper planning of town and country areas, to make provision for the control of development and for matters incidental to the foregoing and connected therewith.

[By Proclamation]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly of Saint Vincent and the Grenadines and by the authority of the same, as follows:—

1. This Act may be cited as the Town and Country Planning Act, 1992 and shall come into operation on such date as the Governor-General may by Proclamation in the Gazette, appoint.

Short title and commencement

2. In this Act unless the context otherwise requires —

Interpretation

“advertisement” means any sign, placard, board, notice, hoarding, word, letter, model or device, displayed on or outside any building or on land or water and situated in or within sight of any public place and used or adapted or intended for use for the purpose of advertising to the public;

“Board” means the Physical Planning and Development Board established under section 3;

“building” includes any structure or erection wherever situated on over or under land and whether temporary or permanent and any part of a building or structure as so defined, but does not include plant or machinery contained in a building;

✓ "building preservation orders" has the meaning assigned to it by section 23;

"chairman" means the chairman of the Board;

"change of use" means any use of a building or land for a purpose other than that for which that building or land was previously used;

"development" includes all building, demolition, rebuilding and mining works, any subdivision of land, the display of any advertisement, and any change of use;

"land" includes land covered by water, incorporeal hereditaments of every tenure or description, and any interest therein and any undivided share in land;

"minerals" include oil and all minerals and substances in or under land or water of a kind ordinarily worked for removal by underground or surface working;

"mining" includes

(i) quarrying or winning of any kind, or the preparation of a site for development whether by levelling, filling or excavating;

(ii) search or bores for minerals;

"Minister" means the Minister responsible for town and country planning;

"outline planning permission" means permission for the erection of a building or the use of land, granted subject to a condition that approval be given by the Board at some later time for the siting, design, density, or external appearance of any such building or the means of access thereto or any other planning consideration;

"Physical Planner" means the head of the Government's Physical Planning Department and shall be used interchangeably with the term "Town Planner";

"statutory undertaker" means any person or body authorised by law to carry on any undertaking for the supply of electricity, gas, hydraulic power or water, telephonic, telegraphic, or sewage services;

"structure" shall include anything floating on water or submerged under water or partly floating and partly submerged;

"subdivision" means the division of any building or piece of land into two or more parts for the purpose of sale, transfer, gift, lease, the creation of a trust, or any other transaction whether or not similar to the foregoing;

"tree preservation order" has the meaning assigned to it by section 22;

"Tribunal" means the Appeal Tribunal appointed under section 27;

"waste order" means an order issued under section 20.

3. (1) There is hereby established a body to be known as the Physical Planning and Development Board which shall consist of twelve members of whom

Establishment of Physical Planning and Development Board

(a) the following ten members of Planning shall be -

(i) the Director of Planning or his nominee;

(ii) the Manager of the Development Corporation or his nominee;

(iii) the Chief Engineer or his nominee;

(iv) the Chief Agricultural Officer or his nominee;

(v) the Chief Surveyor or his nominee;

(vi) the Chief Environmental Health Officer or his nominee;

(vii) the General Manager of the Housing and Land Development Corporation or his nominee;

(viii) the Manager of the Central Water and Sewerage Authority or his nominee;

(ix) the General Manager of St. Vincent Electricity Services Limited or his nominee;

(x) the Commissioner of Police or his nominee;

who shall be ex officio members;

(b) three persons not in the Public Service who shall be appointed by the Cabinet by instrument in writing.

(2) Cabinet shall by instrument in writing appoint a chairman

and a deputy chairman of the Board from amongst the members and the deputy chairman shall in the absence for any reason of the chairman, perform the functions of the chairman.

(3) A member appointed under paragraph (b) of subsection (1) shall serve on the Board for a period of two years or such lesser period as may be specified in the instrument of his appointment, but shall be eligible for re-appointment upon the expiry of his period of office but no member shall hold office for more than three consecutive periods of two years.

(4) Every appointment made under subsections (1) and (2) shall be notified in the Gazette.

(5) The Head of the Physical Planning Unit shall be the Secretary to the Board and the Chief Executive Officer.

(6) In the event of the temporary incapacity of a member other than an ex officio member, whether by reason of illness or other sufficient cause, or the temporary absence from Saint Vincent and the Grenadines of any member, the Cabinet may appoint some other person to act as a temporary member for so long as the incapacity or absence continues.

(7) The Board may sue and be sued in its own name and no suit, prosecution or other proceeding by the Board shall be liable to be questioned on the ground of competence.

4. (1) The Board shall meet at such times as may be necessary for the transaction of business, at such places and times and on such days as the Board may determine.

(2) The chairman shall convene a special meeting of the Board within seven days of receipt of a requisition for that purpose addressed to him in writing and signed by any two members of the Board, and on any other occasion when he is directed in writing by the Minister so to do.

(3) The chairman shall preside at meetings of the Board.

(4) The chairman and four other members shall form a quorum:

Provided that where any member is disqualified by virtue of section 5 from taking part in any deliberation or decision at any meeting of the Board, that fact shall be disregarded for the purpose of constituting a quorum for such deliberation or decision.

Meetings and procedures of the Board

(5) The decision of the Board with regard to any question shall be determined by vote of the majority of the members present and voting at a meeting of the Board, and in the event of equality of votes the chairman shall, in addition to his own vote, have a casting vote.

(6) Minutes of the proceedings at every meeting of the Board shall be kept in such manner as the Board shall determine, and shall be confirmed by the signature of the chairman at the next subsequent meeting after they have been recorded.

(7) Subject to the foregoing provisions of this section the Board may regulate its own proceedings.

5. Every member of the Board who is or becomes aware that he has an interest directly or indirectly in any matter before the Board shall declare his interest therein at the first practicable opportunity before or during the meeting of the Board at which such matter is discussed, and he shall thereupon be disqualified from taking part in any discussion concerning, and from voting in respect of, such matter.

Disclosure of interest

6. (1) The validity of anything done under this Act shall not be affected solely by reason of

Protection of Board and Members

(a) the existence of any vacancy in the membership, or any defect in the constitution of the Board;

(b) an omission or irregularity in respect of a meeting or any proceedings of the Board under section 4;

(c) the contravention by a member of the provisions of section 5.

(2) No civil proceedings shall lie or be instituted against any member of the Board, in respect of any act or omission occurring in good faith in pursuance, or purported pursuance of any of the provisions of this Act, and in the event of such proceedings against the Board no member thereof shall be held to be personally liable.

7. (1) The functions of the Board shall be

Functions of the Board

(a) to institute and maintain a study of town and country development;

(b) to prepare in accordance with sections 8 and 9, a national plan, and regional and local plans for submission to the Minister for approval by Cabinet and to keep the plans under review;

(c) to prepare, in accordance with section 12, for submission

to the Minister for transmission to Cabinet, such subject reports as the Board or the Minister may from time to time consider necessary or desirable to assist the proper planning of the use or development of land;

- (d) to ensure the orderly and progressive development of land and the proper planning of town and country areas;
- (e) to control development by such means as are provided by this Act;
- (f) to do all other things necessary for carrying out the purposes and provisions of this Act as may be authorised.

(2) The Board shall remain at all times responsible for the due and proper performance of its functions under this section, but subject to subsection (1) may, for the purpose of such performance, as it thinks fit

- (a) consult with or obtain advice from other persons;
- (b) engage the assistance of other persons for any general or particular purpose;
- (c) delegate any of its functions under section 8 to any of the persons referred to at paragraph (a) or (b).

(3) Without prejudice to the generality of subsection (2) hereof the Board may in writing delegate any of its duties under section 8 or any other provisions of this Act to the Physical Planner.

Matters to be considered

8. (1) For the purposes of the study of town and country development mentioned in paragraph (a) of section 7(1) the Board, both in relation to Saint Vincent and the Grenadines as a whole, and in relation to any areas thereof which, in the opinion of the Board or of the Minister, requires particular attention, shall examine and keep under constant review

- (a) the numerical size, the composition and the distribution of the population;
- (b) the principal physical environmental and economic characteristics;
- (c) the availability of public utilities, social services traffic and communications;
- (d) such other matters as the Board considers it desirable to be, or as the Minister may direct should be examined and reviewed, and shall have regard to current trends

and policies relating to the matters referred to in this subsection which are or may be relevant to development.

(2) For the purposes of the preparation of the national plan mentioned in paragraph (b) of section 7(1) the Board shall consider the following matters –

- (a) the distribution and foreseeable variation of the distribution of the population;
- (b) the progress of, and current trends and policies relating to economic and social development;
- (c) prevailing physical and environmental conditions;
- (d) current trends and policies relating to the systems of communication within, and connecting with, Saint Vincent and the Grenadines;
- (e) the foreseeable need and availability of land for natural agricultural and forestry reserves, national parks, public open spaces, and other areas which appear to the Board to be in the national interest to retain or provide;
- (f) the provisions of any coastal zone management plan.

(3) For the purposes of the preparation of regional plans the Board shall consider, in relation to a particular region, the following matters –

- (a) the most advantageous development and use of land within the region;
- (b) the numerical size and distribution of the population;
- (c) prevailing economic, physical and environmental conditions;
- (d) the availability of public utilities, social services, traffic and communications;
- (e) the availability of resources likely to be required for the purpose of carrying into effect the proposals of the regional plan concerned;
- (f) the relationship between those proposals and the current national plan and all other regional plans hitherto prepared;
- (g) the environmental impact of any proposal;

(h) such other matters as may be prescribed or as the Minister may direct.

(4) For the purposes of the preparation of local plans the Board shall consider, in relation to a particular locality, the following matters –

(a) the principal functions of the locality concerned and any systems of traffic and communication therein;

(b) the precise location of all proposed roads, buildings and open spaces and of any land to be set aside as a residential, industrial or agricultural area, and the relationship between each of the foregoing and the other;

(c) the foreseeable effect of the establishment of locations under paragraph (b) on adjacent areas outside the locality concerned and in relation to any already existing plans for such areas;

(d) any other measures which, in the opinion of the Board, are or may be required to ensure the provisions of a satisfactory environment in the locality concerned;

(e) the stages by which the development of the locality concerned should be undertaken;

(f) the availability of resources likely to be required for the purpose of carrying into effect the proposals of the local plan concerned.

(5) In the preparation of the plans referred to in subsection (2), (3) and (4) the Board shall also have regard to the following matters –

(a) the allocation of lands for forest reserves, national parks, agricultural, residential, industrial, commercial or other purposes as may be indicated in the plan;

(b) the designation and demarcation of any land that may be allocated for any public purpose;

(c) the designation and demarcation of any land required for comprehensive development of an area including areas adjacent to the area required for the purpose of paragraph (a);

(d) the designation and demarcation of any other land that, in the opinion of the Board, should be reserved for compulsory acquisition for any public purpose.

Composition of development plans

9. (1) The national plan and every regional and local plan prepared under section 7 shall comprise

- (a) a written statement containing the policies and proposals of the Board in relation to the planning of the use and development of the area with which the plan is concerned; and
- (b) any maps, diagrams, or other illustrative or descriptive matter as to the Board may seem appropriate for the purpose of explaining those policies and proposals;

which shall be published in the manner prescribed by Regulations made under this Act.

(2) A national plan or regional or local plan shall not designate any land as land subject to compulsory acquisition on the recommendation of the Board if it appears that the acquisition is not likely to take place within three years from the date on which the plan is approved.

(3) Where any land is designated in a development plan as subject to acquisition, then if at the expiration of two years from the date on which the plan came into operation, any part of that land has not been acquired pursuant to the provisions of the Land Acquisition Act, the owner of interest in that part may serve on the Board a notice requiring the interest to be acquired and if within twelve months after the service of that notice, or such longer period as may be agreed, the interest has not been acquired, the development plan shall have effect as if that part of the land was not designated as subject to acquisition but subject to such alternate restrictions as to user as shall be specified in the development plan.

(4) At least once in every five years after the date on which a development plan for any area is approved by Cabinet, the Board shall carry out a fresh survey of that area, and submit to the Minister a report of the survey, together with proposals for any alternative plan or addition to that plan, that appears to be required.

(5) Notwithstanding the provisions of subsection (4), the Board

- (a) shall, if any time so required by the Minister, and
- (b) may, whenever it appears expedient,

submit to the Minister proposals for alterations or additions to any development plan.

10. Where the Board is of the opinion that any area should be designated for comprehensive development for the purpose of

- (a) dealing satisfactorily with conditions of bad layout or

Designation of areas for acquisition and development

obsolete development;

(b) providing for the relocation of population or industry or for the replacement of open space of any other area;

(c) for any other purpose which may be specified;

the Board may define, designate and include the area in the national, regional or local plans as land subject to compulsory acquisition and comprehensive development.

Register

11. The Board shall maintain a register of all applications, appeals, decisions and other allied matters, and the register shall be open for inspection by the public at the office of the Board during its normal working hours together with all maps and plans submitted with any application.

Policy Statements

12. For the purposes of the subject reports mentioned in paragraph (c) of section 7 (1) the Board shall prepare and submit to the Minister for submission to Cabinet written statements containing the policies and proposals of the Board in relation to the subject with which the report deals, and may explain those policies and proposals by means of any map, diagram, or other illustrative or descriptive matter as to the Board may seem appropriate.

Approval of national, regional and local plans

13. (1) All national, regional and local plans submitted to Cabinet for approval shall, unless Cabinet otherwise requires, be considered by the Minister who, subject to subsection 3, may approve the plan, make modifications thereto or return the plan to the Board for reconsideration.

(2) Where in relation to any plan a modification is sought to designate any land as subject to compulsory acquisition even though it was not so designated in the plan submitted for approval, the Minister shall grant the request only if satisfied that the modification is necessary.

(3) Before according approval of or making modifications to any plan submitted for approval, the Minister shall cause to be published in two issues of the Gazette a notice

(a) indicating that a plan has been prepared by the Board;

(b) stating the place where the plan may be inspected; and

(c) fixing a period of not less than twenty-eight days, within which objections or representations may be made to the Minister with respect to the plan or the proposals contained therein.

(4) Any objections or representations in relation to a plan

made in response to a notice under subsection (3) shall be in writing and on receipt thereof, the Minister shall designate any competent person to make a report to him after due enquiry.

(5) The Minister shall consider the objections or representations, if any, made to a plan and the report thereof obtained in pursuance of subsection (4), before making final orders regarding a plan under this section.

(6) Where the Minister has approved a plan or made any modifications thereto he shall cause notice of the approval, or of the modifications, to be published in two issues of the Gazette stating the place where the public may make an inspection of the relevant papers.

14. (1) The Minister may, by order published in the Gazette, declare any specified area to be a zoned area reserved for a public purpose to be specified, and where any such order has been made the Board shall not be competent to consider any application for permission for development in respect of any land or building included in the zoned area.

Zoned area declaration

(2) Any declaration made pursuant to subsection (1) may specify the activity or activities or use prohibited in or about such specified areas.

(3) Any owner of land within a specified area referred to in subsection (1), may appeal in the manner prescribed under section 27 of this Act.

15. (1) Where in accordance with the provisions of this Act, any land or building has been designated in a national, regional or local plan as subject to compulsory acquisition, such land or building may be acquired under the law for the time being in force relating to land acquisition and for the purpose it shall, notwithstanding anything contained in any other law, be presumed that such land or building is required for a public purpose.

Compulsory acquisition of land

(2) Nothing contained in subsection (1) shall be construed as restricting the Government from acquiring the land or building by agreement.

16. (1) Subject to subsection (3) and notwithstanding any provisions in any other law, no person shall carry out, or cause to be carried out, any development except under and in accordance with the conditions of a grant of permission for development given in writing by the Board.

Application for development

(2) Every person applying for a grant of permission for development shall submit an application to the Board in the prescribed form.

(3) Notice of application for planning permission for categories prescribed in the Regulations shall be published in the Gazette giving

- (a) the particulars of the application; and
- (b) inviting observations from interested persons;

and copies of the publications shall be submitted to the Board which shall not consider an application in the absence of such notice.

(4) Permission for development is not required in respect of –

- (a) any development which affects only the interior of a building or which does not materially alter the external appearance of a building except those buildings in respect of which there is in force a building preservation order;
- (b) any work carried out by or on behalf of a statutory undertaking in pursuance of its statutory powers or duties;
- (c) any development authorised before the coming into operation of this Act under and executed in accordance with the Housing and Land Development Corporation Act, 1976;
- (d) any use, confined within the curtilage of a dwelling house, which is incidental to the enjoyment of the dwelling house as such;
- (e) buildings or land to be used for a purpose specified in an order made by the Minister, which is used for any other similar purpose;
- (f) the erection, alteration, extension or reconstruction of a gate, fence or wall which in height
 - (i) does not exceed three feet six inches where such gate, fence or wall abuts upon any road capable of carrying motor traffic;
 - (ii) does not exceed six feet in any other case, if, after the completion of the work necessary for such erection, alteration, extension or reconstruction, the gate, fence or wall does not exceed the height specified when measured from the ground;

(g) any development or class of development which the Minister may specify by order published in the Gazette (hereinafter referred to as a Development Order) as being

exempted from the requirement of permission under this section.

(5) A person may apply for a grant of permission in principle for the proposed development and obtain an outline approval in respect thereof and such outline approval shall be valid for two years, within which time application for final permission for development shall be submitted to the Board.

(6) Any person who carries out or has carried out a development and is desirous of ascertaining the requirement for permission for so doing may make an application to the Board for the approval of that development and the Board shall consider the application, as if it were an application for the grant of permission for development.

17. (1) In dealing with an application for the grant of permission for development, the Board shall, so far as it is practicable so to do, give primary consideration to –

- (a) the approved national, regional and local plans, if any, prepared in accordance with the provision of this Act;
- (b) an approved development plan applicable to the land to which the application relates;
- (c) an approved environmental impact statement made pursuant to section 29 in respect of the application.

(2) In addition to the considerations referred to in subsection (1) the Board shall, in considering any application under subsection (1) take into account such of the following considerations as are in its opinion relevant to the application before it –

- (a) any statement of policy issued by the Minister which is relevant to the application;
- (b) any representation made by any department of Government, or statutory board;
- (c) any representations made by any member of the public;
- (d) any other material considerations.

(3) Without restricting the generality of paragraph (d) of subsection (2), amongst the considerations that may be regarded as material are –

- (a) the use or uses to which the land to which the application relates is being put at the time of the application;

Permission for development

- (b) the pattern of development of the area of which the land to which the application relates is a part;
 - (c) the likely impact on the environment of the area where the proposed development is to take place;
 - (d) possible alternative sites for the proposed development;
 - (e) whether any pollution, including pollution of the marine environment, is likely to be caused by the proposed development;
 - (f) any social costs and benefits to the community which are likely to be generated by the proposed development;
 - (g) where the application is for permission to subdivide land –
 - (i) whether the plan of subdivision conforms to the development plan for the area;
 - (ii) the suitability of the land for the purpose for which the subdivision is intended;
 - (iii) the number, width, location, proposed grades, and elevation of roads and the adequacy thereof and the linking roads in the proposed subdivision with the established road system and the adequacy thereof;
 - (iv) the dimension and shape of the lots;
 - (h) the availability of water, electricity and waste disposal services.
- (4) The Board after consideration of the matters referred to in subsections (1), (2) and (3) may either grant or refuse permission or in its discretion postpone its decision for the reasons set out in subsection (7).
- (5) A decision of the Board under subsection (4) may relate to the whole or to any distinct part of the development in respect of which the application is made, and may be given subject to such reasonable conditions or limitations as the Board sees fit to impose for the purpose of ensuring that the development is carried out in accordance with the provisions of this Act.
- (6) Without prejudice to the generality of its powers under subsection (4), the Board may grant permission for development either unconditionally or subject to such conditions as it thinks fit.
- (7) Without prejudice to the generality of subsection (4) the Board may impose conditions

- (a) regulating the development or the use of any land under the control of the applicant (whether or not it is a land in respect of which an application was made) or requiring the carrying out of work on any such land, so far as it appears to the Board to be expedient for the purposes of, or in connection with, the development or use authorized by the permission;
 - (b) requiring the removal of any building or works authorized by the permission, or the discontinuance of any use of land so authorized at the end of a specified period and the carrying out of any works for the reinstatement of any land at the expiration of that period;
 - (c) requiring the commencement or completion of any development before a specified date or before the completion of any development being carried out by the same applicant;
 - (d) requiring the provision of proper services including water, electricity and roads before the sale, lease or other disposition of any land for which permission has been granted for subdivision for housing or commercial or industrial purposes.
- (8) Permission for development granted subject to the condition that it shall be valid for a limited period only, shall be referred to as a "limited period grant".
- (9) Every decision of the Board under subsection (4) shall be in writing, in the prescribed form and, unless served on the applicant within a period of twelve weeks from the date of receipt by the Board of all the necessary documentation relating to the application, the applicant may treat the application, or that part in respect of which a decision has not been given, as having been refused and may appeal as provided in section 27.
- (10) Where under subsection (4) the Board refuses or postpones permission for development, the Board shall state the reasons therefor, and in any case where the Board postpones its decision it shall be to enable the applicant, within a specified period to furnish maps, plans or studies to the satisfaction of the Board showing the nature, extent or manner of the development desired, or any other information in writing which, in the opinion of the Board, is relevant to the application.
- (11) Every grant of permission for development shall be subject to the condition that the development is to be completed in accordance with the grant within two years immediately following the date of the grant unless a different period is specified therein:

Provided that the Board may, at any time before the expiry of any

such period, extend the period to a date to be specified if satisfied by the applicant that the extension is necessary to enable the development to be completed.

(12) A grant of permission for development in respect of any development which has not been completed or substantially completed in accordance with the grant within the period specified under subsection (11) shall, unless extended, lapse upon the expiry of that period.

Enforcement notice

18. (1) In lieu of or addition to proceedings for an offence punishable under section 31, and whether or not such proceedings have been instituted, where any development appears to the Board to have been carried out –

- (a) in contravention of any of the provisions of this Act, or
- (b) in non-compliance with any conditions or limitations subject to which planning permission was granted,

the Board may serve an enforcement notice in the prescribed form upon the owner or occupier of any land or building in relation to which such development appears to have been carried out and upon any other person who, in the opinion of the Board, may be affected by the notice.

(2) Where the enforcement notice relates to a development which has been carried out, notice shall be served within a period of five years from the date on which it was carried out and where the notice relates to the violation of any condition or limitation or restriction, notice shall be served within five years of the date of the violation.

(3) Every enforcement notice shall specify the matters which it is alleged constitute a contravention of the provisions of this Act and the steps which the Board requires to be taken to ensure compliance therewith, and shall further specify a date by or before which all such steps shall be taken.

(4) The steps to be taken in relation to subsection (3) may include the demolition or alteration of any building or works or the discontinuance of any use of land, or the carrying out on land of any building or other operations.

(5) Any person upon whom an enforcement notice has been served who without reasonable excuse, fails or neglects to comply with any requirement thereof commits an offence and is liable on summary conviction to a fine not exceeding twenty thousand dollars and to a further fine not exceeding three hundred dollars in respect of each day during which the offence continues.

(6) Where after an enforcement notice has been served in accordance with subsection (1) and within the time specified in the notice or within such extended period as the Board may, on application

allow, there is default in the taking of the steps required to comply with the notice, an agent of the Board authorised in writing may take such action as may be necessary to enforce compliance, and any expenditure incurred by the Board in this behalf, shall be recoverable as a civil debt from the owner or occupier of the land on whom the enforcement notice was served.

(7) Any action taken by the Board in pursuance of subsection (6) shall be without prejudice to the application of subsection (5).

(8) Any person, who is aggrieved by an enforcement notice made under subsection (1) may appeal against the notice on one or more of the following grounds –

- (a) that planning permission was granted for the development to which the enforcement notice relates;
- (b) that no planning permission was required in respect of the development;
- (c) that the conditions or limitations subject to which planning permission was granted have been complied with;
- (d) that the notice was not served in accordance with any specified provision or provisions of this section.

(9) On an appeal under this section the Tribunal may correct any informality, defect or error in the enforcement notice if satisfied that the informality, defect or error is not a material one.

(10) Notwithstanding the provisions of subsection (8) any person who is aggrieved by an enforcement notice may apply to the Board within seven days of the service of the notice for its withdrawal by the Board and the Board shall within twenty-one days of receipt of such application confirm or withdraw the notice.

(11) When an enforcement notice relates to a development in the process of being carried out (whether by way of change or use or by way of non-compliance of the conditions subject to which planning permission was granted or in any other way) all activities which constitute a violation of the enforcement notice shall cease forthwith pending the decision of the matter on appeal and continuance of any such activity, save with the specific permission of the Tribunal appointed under section 27 (3) accorded after giving the Board an opportunity to be heard, shall be an offence punishable under subsection (5).

19. (1) Where in respect of any land the Board has served an enforcement notice, the Board may, at any time before the notice takes

Stop notice

effect, serve a further notice (in this Act referred to as a "stop notice") referring to, and having annexed to it, a copy of the enforcement notice and prohibiting any person on whom the stop notice is served from carrying out or continuing any specified operation on the land, being an operation either alleged in the enforcement notice to constitute a breach of planning control or so closely associated therewith as to constitute substantially the same operation.

(2) The operations which may be the subject of a stop notice are the deposit of refuse or waste materials on land or beaches causing environmental damage, or acts affecting the health or safety of persons or property or disrupting the essential services, where such action is a breach of planning control alleged in the enforcement notice.

(3) A stop notice may be served by the Board on any person who appears to them to have an interest in the land or to be concerned with the carrying out or continuance of any operation thereon.

(4) A stop notice –

(a) shall specify the date (not earlier than three nor later than fourteen days from the day on which the notice is first served on any person) when it is to take effect;

(b) in relation to any person served with it, shall have effect as from that date or the third day after the date of service on him, whichever is later; and

(c) shall, without prejudice to subsection (7) cease to have effect when the enforcement notice takes effect or is withdrawn or quashed.

(5) If a person on whom a stop notice is served carries out, or causes or permits to be carried out, any operation prohibited by the notice, he commits an offence and is liable on summary conviction to a fine not exceeding sixty thousand dollars and if the offence is continued after conviction he shall be liable to a further fine not exceeding five hundred dollars for each day during which the offence continues.

(6) A stop notice shall not be invalid by reason that the enforcement notice to which it relates was not served as required by section 18 of this Act if it is shown that the Board took all such steps as were reasonably practicable to effect proper service.

(7) The Board 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 notice was served and the stop notice shall cease to have effect as from the date of service of the notice of withdrawal.

20. (1) If the Board is satisfied that any area of land or any building is derelict, neglected or wasted or a public nuisance or hazard so as to constitute a substantial detraction from any amenity or from the enjoyment thereof, the Board may serve a waste order in the prescribed form upon the owner or the occupier of the land or building and upon any other person who, in the opinion of the Board may be affected by the order.

(2) Every waste order shall specify the matters which it is alleged constitute a substantial detraction from an amenity or from the enjoyment thereof, and the steps which the Board requires to be taken to restore the land or building to fit condition, and shall further specify a date by or before which all such steps shall be taken.

(3) Any person upon whom a waste order has been served who, without reasonable excuse, fails or neglects to comply with any requirement thereof, or by an act or omission contravenes subsection (7), commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars and to a further fine not exceeding three hundred dollars in respect of each day during which the offence continues.

(4) Where a waste order made by the Board has not been complied with within any extended period allowed for the purpose, the Board may, without prejudice to any action that may be taken under subsection (3), authorise its agents in writing to enter upon the land or take such steps as may be necessary to enforce compliance, and any expenditure incurred by the Board in this behalf may be recovered from the owner or occupier of the land against whom a waste order was made, as if it were a civil debt.

(5) In any proceeding under subsection (4), it shall not be open to any person to dispute the validity of the waste order.

(6) Any person against whom a waste order has been served may appeal against the same on one or more of the following grounds –

(a) that the condition of the building or land to which the order relates does not seriously injure the amenity and is not likely to do so;

(b) that the condition of the building or land is such that in the normal course of events the building or land cannot be put to use without detracting from the amenity;

(c) that the building does not constitute a public nuisance or a hazard to the public;

(d) that the directions of the order exceed what is necessary for preserving any public amenity;

Waste orders

(e) that the period specified in the order for carrying out its directions falls short of the time reasonably required for the purpose.

(7) Where a waste order has been made, every act or omission which could constitute a violation of the order or contribute to such violation shall cease forthwith pending the decision of the matter on appeal and any failure to remedy such act or omission save with the specific permission of the Tribunal accorded after giving the Board an opportunity to be heard, shall be an offence punishable under subsection (3).

Power of Board to require discontinuance of use, etc.

21. (1) Where the Board is satisfied, having regard to the national, regional, or local plan or to any other material or information in its possession, that in the public interest

(a) any use of land should be discontinued, or that any conditions should be imposed on the continued use of land; or

(b) any building or works should be altered or removed;

the Board may, with the previous approval of the Minister, require by order published in the Gazette, the discontinuance of the use or the compliance with such conditions as may be specified in the order.

(2) Any order made under subsection (1) may include permission for development of any land specified in the order, and every such permission shall have effect as if the same were granted on application, and the provisions of the Act shall apply accordingly.

(3) The Board shall, prior to submitting an order made under subsection (1) for the approval of the Minister, serve notice of its intention so to do on the owner, occupier, or any other person who, in its opinion is interested in the matter, requesting them to submit their objections if any, to the Board within a specified period.

(4) Where an objection has been submitted under subsection (3) the Board shall transmit the objection along with the order and the comments of the Board, if any, to the Minister who may appoint any competent person or authority to consider the same and report after giving a reasonable opportunity to the objector to present his case.

(5) Every order approved by the Minister shall be forwarded to the Board and a copy thereof shall be served on any owner, occupier, or other person on whom notice was served in the earlier stage of the proceedings.

Tree preservation order

22. (1) If the Board is satisfied that it is necessary (a) in order to provide any amenity to the public; or

(b) for the purpose of soil conservation or tree preservation or water conservation; or

(c) for any other public purpose,

to prohibit the destruction of any tree, forest, or woodland, the Board after consultation with the Chief Forestry Officer may serve a tree preservation order upon the owner or occupier of any land and on any other person who, in the opinion of the Board, may be affected by the order.

(2) An order under this section shall not apply in relation to

(a) the destruction of trees which are dead or dying, or which by reason thereof have fallen or are in danger of falling; or

(b) any measures which it is necessary to take for the purpose of abating a public or private nuisance; or

(c) anything done in pursuance of an obligation or authorization imposed or conferred by any written law for the time being in force; or

(d) the destruction of trees, or woodland to such extent as the Board may in the order specifically authorize,

but subject to this subsection such order may impose any prohibition, restriction or requirement for any of the purposes specified in subsection (1).

(3) Any person upon whom a tree preservation order has been served who, without reasonable excuse, fails or neglects to comply with any prohibition, restriction or requirement thereof commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars and to a further fine not exceeding two hundred dollars in respect of each day during which the offence continues.

(4) Where a tree preservation order has been made every act or omission which could contribute to such violation, shall cease forthwith pending the decision of the matter on appeal and any failure to desist from such act or to rectify the omission, save with the specific permission of the Tribunal accorded after giving the Board an opportunity to be heard shall be an offence punishable under subsection (3).

23. (1) The Minister may, upon the recommendation of the Board where it appears that it is expedient to make provision for the preservation of any building of special architectural or historic interest in St. Vincent and the Grenadines, make an order (in this Act referred to as a "building preservation order") restricting the demolition, alteration or extension of the building.

Building preservation order

(2) The Minister shall not make a building preservation order if satisfied that the execution of the works specified in the order would not seriously affect the character of the building.

(3) Provision may be made by a building preservation order –

(a) for requiring that the consent of the Board be obtained for the execution of works of any description specified in the order and for enabling that Board to give its consent subject to conditions;

(b) for applying in relation to such consent and to application for such consent, any of the provisions of this Act relating to permission to develop land and to applications for such permission subject to such adaptations and modifications as may be specified in the order;

(c) for enabling the Board where any works have been executed in contravention of the order, to require the restoration of the building to its former state, and for that purpose for applying any of the provisions of sections 18 and 19 with respect to enforcement of planning control, subject to such adaptations and modifications as may be specified in the order.

(4) Nothing in any building preservation order shall render unlawful the execution of any works which are urgently necessary in the interest of safety or health or for the preservation of the building or of neighbouring property, so long as notice in writing of the proposed execution of the works is given to the Board as soon as may be after the necessity for the works arises.

(5) Any person, being the owner or occupier of a building in relation to which a building preservation order is in force, who executes or causes or permits the execution of any works in contravention of the order commits an offence and is liable on summary conviction to a term of imprisonment of one year or to a fine not exceeding twenty-five thousand dollars or to both such fine and imprisonment.

List of buildings of special architectural or historic interest

24. (1) For the purpose of performing his functions under this Act in relation to buildings of special architectural or historic interest, the Minister shall approve, with or without modifications, lists of such buildings compiled by the St. Vincent National Trust or other similar persons or bodies and may amend any list so compiled or approved.

(2) As soon as may be after any list has been approved or amended under this section, the list as approved or amended shall be published in two issues of the Gazette.

(3) As soon as may be after the inclusion of any building in a list under this section, or as soon as may be after the exclusion of any building therefrom, the Minister shall serve a notice on every owner and occupier of the building, stating that the building has been included in, or excluded from the list, as the case may be.

(4) Before approving, with or without modifications, any list under this section, the Minister may consult with such persons or bodies of persons as appear to him appropriate as having special knowledge of, or interest in buildings of architectural and historic interest.

25. (1) Subject to this section, so long as a building (being a building to which a building preservation order applies) is included in a list compiled or approved under section 24, no person shall execute or cause or permit to be executed any works for the demolition of the building, or for its alteration or extension in any manner which would seriously affect its character, unless at least two months before the works are executed notice in writing of the proposed works has been given to the Board.

Effect of inclusion of building in list under section 24

(2) Nothing in subsection (1) shall render unlawful the execution of any works which are urgently necessary in the interest of safety or health or for the preservation of the building or of neighbouring property, so long as notice in writing thereof has been given to the Board as soon as may be after the necessity for the works arises.

(3) Where the Board receives notice of any proposed works under subsection (2), it shall as soon as may be send a copy of the notice to the Minister, the St. Vincent National Trust and to such other persons or bodies of persons as may be specified by directions of the Minister either generally or in respect of the building in question.

26. (1) If it appears to the Board to be necessary to amend any grant of permission for development, as a result of any false or inaccurate information supplied to the Board, the Board may by notice in writing served upon the person to which such permission is granted, amend the grant.

Amendment of grants or orders

(2) If it appears to the Board to be necessary to amend any notice or order made under section 18, 20, 22 or 23 the Board may by notice in writing served upon the owner or occupier or any other person upon whom such notice or order was served, amend the notice or order.

27. (1) Any person who is aggrieved by a decision of the Board made under section 17 or any other provisions of this Act, or whose application for permission for development has not been decided upon by the Board within four weeks of the expiration of the twelve weeks period required under section 17 (9), may appeal to the Minister against the decision.

Establishment and functions of Appeals Tribunal

(3) The Board shall cause a copy of every order made under this section to be posted in a conspicuous place at every police station and post office in this Island.

(4) Any person who

(a) obstructs any person in carrying out any measure authorized by an order under subsection (1); or

(b) contravenes any provision of such order,

commits an offence, and is liable on summary conviction before a Magistrate to a fine not exceeding twenty thousand dollars.

Offences

31. (1) Any person who, without having first obtained permission as required by this Act, carries out or causes to be carried out any development other than as specified in subsection (3) of section 16, commits an offence and is liable on summary conviction to a fine not exceeding twenty thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(2) Any person who, having been granted permission for development, without reasonable excuse, fails to comply or neglects to ensure compliance with any condition or limitation imposed by virtue of subsection (2) of section 17, or who carries out or causes to be carried out any development after such permission has lapsed under subsection (7) of that section, commits an offence and is liable on summary conviction to a fine not exceeding twenty thousand dollars and to a further fine not exceeding one thousand dollars in respect of each day during which the offence continues.

(3) Any party to an appeal under section 27 who fails to comply with, or who neglects to ensure compliance with, the decision, or with any condition or limitation contained in the decision of the Tribunal on such appeal, being a decision with which he has a duty to comply, commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars and to a further fine not exceeding three hundred dollars in respect of each day during which the offence continues.

(4) Any person who contravenes any provision of this Act or of Regulations made thereunder for which no penalty has been specifically prescribed, commits an offence and is liable on summary conviction thereof to a fine not exceeding three thousand dollars or to imprisonment for one year or to both such fine and imprisonment.

(5) In the case of a continuing offence where the penalty is not specifically prescribed there shall be an additional fine of two hundred and fifty dollars for each day the offence continues after the date of conviction without lawful excuse whether or not an appeal is

ending but if acquitted on such appeal the additional payment shall be refunded.

(6) Where any body corporate commits an offence under this Act, and the offence is proved to have been committed with the consent or connivance of any director, manager, secretary or other officer of the body corporate, the officer responsible as well shall be liable to be prosecuted and on summary conviction punished accordingly for such offence.

(7) The Board or the State may initiate prosecutions for any offence under this Act.

32. (1) Any person duly authorised in writing by the secretary to the Board may at any reasonable time enter any premises -

Power to enter premises

(a) to ascertain whether the provisions of this Act are being or have been complied with;

(b) to inspect any such premises;

(c) to obtain any information which he has reasonable grounds to believe may assist the Board to determine whether or not an offence under this Act is being or has been committed and to identify the person responsible for the commission of the offence;

(d) to require any person who the Board has reasonable ground for suspecting to have committed or to be about to commit an offence under this Act to answer any question or to produce any document which may be relevant to establish this fact.

(2) Any person authorised under this section to enter upon any premises shall, if so required, produce evidence of his authority before so entering, and shall not demand admission as of right to any premises that is occupied unless where possible reasonable notice of the intended entry has been given to the occupier.

(3) Anyone who willfully obstructs or hinders a person duly authorised under subsection (1), or who, when required under that subsection to give any information, answer any question or produce any document, refuses to comply or knowingly gives any information, answer or document which is false or misleading, commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for one year or both such fine and imprisonment.

(4) If the Board is satisfied that for any reason, anyone upon

whom an order under section 18, 20 or 22 has been served has failed to carry out, or to cause to be carried out, any requirement of such order, the secretary to the Board may in writing authorise its agents to enter the premises in question and to do or cause to be done all things necessary to ensure compliance with the requirement, and the expenses incurred thereby shall be recoverable summarily as a civil debt from the person upon whom the order was served.

Service of documents

33. (1) Any document required to be served upon the Board under this Act shall be deemed to be duly served upon its delivery to the office of the secretary to the Board.

(2) Every document required by this Act to be served on the Board shall, on delivery at the office of the secretary to the Board, be marked or stamped so as to show clearly the date upon which it was delivered.

(3) Every document required by this Act to be served upon any person other than the Board shall be deemed to be duly served if -

- (a) delivered personally; or
- (b) addressed to the person and left at his usual or last known place of abode or at any address for service notified by him or on his behalf; or
- (c) sent by registered post, addressed to the person, to his usual or last known place of abode or to any address for service notified by him or on his behalf; or
- (d) in the case of a company, delivered personally or sent by registered post addressed to the secretary of the company at the registered office of the company or its principal place of business; or
- (e) affixed conspicuously to some object on land owned or occupied by the person and addressed to him by name or as "the owner" or "the occupier" as the case may be:

Provided that service in the manner specified in this paragraph shall not be effective unless service by other means under this subsection has failed or is known to be likely to fail.

er of Board to est informa-

34. (1) The Board may require any person, who is reasonably believed to be carrying out a development without having obtained permission to develop, to submit to the Board any information relative to that development.

(2) Any person who neglects, fails or refuses to comply with

a request made under subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding three thousand dollars and to a further fine not exceeding one hundred dollars for every day during which the offence continues.

Minutes

35. Minutes of any meeting of the Board which is purported to have been kept and confirmed in accordance with subsection (6) of section 4 shall be receivable as prima facie evidence in all legal proceedings without further proof of the keeping or contents thereof.

Regulations

36. The Minister may make Regulations generally for the proper carrying out of the provisions and purposes of this Act, and in particular but without prejudice to the generality of the foregoing may make Regulations in relation to -

- (a) the manner of preparation by the Board of subject reports;
- (b) the conditions under which developments may be exempted from the requirement of permission under section 16 (4) (g);
- (c) the form of any application, decision, notice or other document authorised or required by this Act to be prescribed;
- (d) approvals for subdivisions;
- (e) the form of an enforcement notice, stop notice, waste and tree preservation order;
- (f) the making of applications for permission to develop land;
- (g) the fees to be paid in respect of applications for grants of permission for development and in respect of appeals;
- (h) the manner of preparation, content and publication of the national plan, and of regional and local plans, and for the involvement of the public in the preparation of such plans;
- (i) the description or category of enterprise, construction or development in respect of an environmental impact assessment or an environmental assessment statement as required by the Board;
- (j) the preparation, content and consideration of an environmental impact assessment or an environmental assessment statement;
- (k) the proper control of the height, density and set back of

buildings, lands for various uses, parking, roads, road junctions, road reserves, water supply, electricity, sewerage, garbage disposal, and any other matter that may have a relationship to development;

- (l) the proper control of the construction of buildings or structures;
- (m) regulating change of use applications;
- (n) the circumstances and conditions under which property may be forfeited by order of court for non-compliance with planning or zoning regulations.

(2) Any regulations made under this Act may provide for the imposition of a fine not exceeding ten thousand dollars for any contravention of the Regulations.

Repeals and amendments

37. (1) The Town and Country Planning Act 1976, is hereby repealed.

(2) Section 4 of the Preservation of Historic Buildings and Antiquities Act, 1976 is hereby repealed.

(3) Section 2 (1) of the Noise Control Act, 1988 is amended by deleting the definition of "Minister" and substituting therefor the following:

"Minister" means the Minister responsible for town and country planning."

Application of Act to Housing Corporation

38. Notwithstanding anything contained in the Housing and Land Development Corporation Act, 1976, the Housing and Development Corporation shall be subject to the jurisdiction and powers of the Physical Planning and Development Board.

Transitional

39. (1) At the date of commencement of this Act –

- (a) the Board is hereby charged with responsibility for the due completion of any matters outstanding under the Town and Country Planning Act 1976, (hereinafter referred to as the "former Act");
- (b) there is transferred to the Board –
 - (i) all property and any other assets belonging to the former Board; and
 - (ii) all rights, duties, privileges, powers and advantages of the former Board, and all liabilities and obligations to which it was subject;

- (c) references, in any deed, contract, security or other document of a private nature, to the former Board shall be construed as references to the Board as occasion requires;
- (d) any legal proceedings by or against the former Board pending immediately before the commencement of this Act shall be continued as if the Board were a party thereto in lieu of the former Board;
- (e) no limitation of time in respect of proceedings by or against the former Board, whether pending or anticipated, arising out of any cause of action accrued before the commencement of this Act shall be affected by the coming into effect of this Act.

(2) In this section "the former Board" means the Board established under the provision of section 3 of the Town and Country Planning Act, 1976.

40. (1) On the commencement of this Act all appeals pending before the Tribunal constituted under the former Act (hereinafter referred to as the "former Tribunal") shall be continued under and in conformity with the provisions of section 27 as far as is possible but where any matter was in the course of being heard or investigated by the former Tribunal but no order had been given or decision made the former Tribunal shall continue to function for the purpose of completing the hearing or investigation and making an order or rendering a decision.

Savings

(2) For the purpose of completing a hearing or investigation or making an order or decision on a matter heard or part heard under the former Act, the former Tribunal shall act in accordance with the authority vested in it under the former Act.

(3) Any order or decision made by the former Tribunal pursuant to this section shall be deemed to be an order or decision of the Tribunal and shall have the same force and effect as if it had been made by the Tribunal.

Passed in the House of Assembly this 16th day of April, 1992

J. THERESA ADAMS
Clerk of the House of Assembly

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to the Minister for transmission to Cabinet, such subject reports as the Board or the Minister may from time to time consider necessary or desirable to assist the proper planning of the use or development of land;

- (d) to ensure the orderly and progressive development of land and the proper planning of town and country areas;
- (e) to control development by such means as are provided by this Act;
- (f) to do all other things necessary for carrying out the purposes and provisions of this Act as may be authorised.

(2) The Board shall remain at all times responsible for the due and proper performance of its functions under this section, but subject to subsection (1) may, for the purpose of such performance, as it thinks fit

- (a) consult with or obtain advice from other persons;
- (b) engage the assistance of other persons for any general or particular purpose;
- (c) delegate any of its functions under section 8 to any of the persons referred to at paragraph (a) or (b).

(3) Without prejudice to the generality of subsection (2) hereof the Board may in writing delegate any of its duties under section 8 or any other provisions of this Act to the Physical Planner.

Matters to be considered

8. (1) For the purposes of the study of town and country development mentioned in paragraph (a) of section 7(1) the Board, both in relation to Saint Vincent and the Grenadines as a whole, and in relation to any areas thereof which, in the opinion of the Board or of the Minister, requires particular attention, shall examine and keep under constant review

- (a) the numerical size, the composition and the distribution of the population;
- (b) the principal physical environmental and economic characteristics;
- (c) the availability of public utilities, social services traffic and communications;
- (d) such other matters as the Board considers it desirable to be, or as the Minister may direct should be examined and reviewed, and shall have regard to current trends

and policies relating to the matters referred to in this subsection which are or may be relevant to development.

(2) For the purposes of the preparation of the national plan mentioned in paragraph (b) of section 7(1) the Board shall consider the following matters –

- (a) the distribution and foreseeable variation of the distribution of the population;
- (b) the progress of, and current trends and policies relating to economic and social development;
- (c) prevailing physical and environmental conditions;
- (d) current trends and policies relating to the systems of communication within, and connecting with, Saint Vincent and the Grenadines;
- (e) the foreseeable need and availability of land for natural agricultural and forestry reserves, national parks, public open spaces, and other areas which appear to the Board to be in the national interest to retain or provide;
- (f) the provisions of any coastal zone management plan.

(3) For the purposes of the preparation of regional plans the Board shall consider, in relation to a particular region, the following matters –

- (a) the most advantageous development and use of land within the region;
- (b) the numerical size and distribution of the population;
- (c) prevailing economic, physical and environmental conditions;
- (d) the availability of public utilities, social services, traffic and communications;
- (e) the availability of resources likely to be required for the purpose of carrying into effect the proposals of the regional plan concerned;
- (f) the relationship between those proposals and the current national plan and all other regional plans hitherto prepared;
- (g) the environmental impact of any proposal;