

CHAPTER 432

THE TOWN AND COUNTRY PLANNING ACT

Arrangement of Sections

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TOWN AND COUNTRY PLANNING

(9th April, 1948.)

4/1948.
13/1950.
18/1989.
S.I. 39/1989.

PART I

Preliminary

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

2. In this Act— **Interpretation.**

"Central Authority" means the Central Housing and Planning Authority established under the provisions of the Slum Clearance and Housing Act; **Cap.404.**

"building" includes any erection of whatever material and in whatever manner constructed or any part of a building and where the context so permits, includes the land on, in or under which the building is situate;

"building operations" includes any road works, preliminary or incidental to the erection of buildings;

"development" in relation to any land includes any building or re-building operations and any use of the land or any buildings thereon for a purpose which is different from the purpose for which the land or building was last being used;

"existing building" means a building erected or constructed before the material date;

"fence" includes any hoarding or paling used as such, and also banks and walls;

"hedge" includes any tree or shrub forming a part of a hedge;

"Judge" means a Judge of the High Court sitting in Chambers, and in the case of any matter within the jurisdiction of a Magistrate's Court, includes a Magistrate;

"land" includes land covered with water and also includes incorporeal as well as corporeal hereditaments of every tenure or description, and any interest therein, and also an undivided share of land;

"Local Authority" means any Authority which the Minister shall by order published in the *Gazette* declare to be a Local Authority for the purposes of this Act, and within the area and to the extent specified in such order;

"material date" means in relation to any provision contained in a scheme, other than a supplementary scheme or varying scheme, the date on which the resolution to prepare or adopt a scheme took effect, or such later date as may be fixed by the scheme, either generally or for the purposes of any particular provision thereof; and in relation to any provision contained in a supplementary scheme or a varying scheme, means the date on which such scheme or order came into operation, or such later date as may be fixed by the scheme or order, either generally or for the purposes of a particular provision thereof:

Provided that where any provision of a scheme or order is revoked by a subsequent scheme or order which contains the same provision or a provision substantially to the same effect, the material date in relation to that later provision shall be the date which, if the earlier provision had continued in operation, would have been the material date in relation thereto;

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

"owner" in relation to any building or land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the right of ownership of the building or land, whether in possession or reversion, and includes also a person holding or entitled to the rents and profits of the building or land under a lease or agreement the unexpired term whereof exceeds three years;

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

"scheme" means a scheme under this Act and includes a town planning scheme, a regional scheme, a supplementary scheme and a scheme varying or revoking an existing scheme;

"site" in relation to a building includes the area of any offices, out-buildings, yard, court or garden occupied or intended to be occupied therewith.

3. The duty of carrying out the provisions of this Act including the due execution and enforcement of any scheme in accordance therewith, shall (subject to the limitations and conditions hereinafter contained) be vested in the Central Housing and Planning Authority of Antigua and Barbuda (in this Act referred to as the Central Authority) established under the Slum Clearance and Housing Act, and the provisions of sections 4 to 7 inclusive of that Act shall *mutatis mutandis* have effect as if they formed part of this Act. Planning Authority.

PART II

Preparation and Approval of Schemes

4. (1) The Central Authority with the approval of the Minister may make regulations for regulating generally the procedure to be followed in connection with the prepa- Regulation as to procedure and in relation to matters in First Schedule.

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ration and the adoption of schemes and the several matters and things mentioned in the First Schedule.

(2) Regulations made under this section shall have no force or effect until they have been approved by the Legislature.

Preparation or adoption of schemes.

5. (1) The Central Authority may by resolution decide to—

(a) prepare a scheme with respect to Antigua and Barbuda as a whole; or

(b) prepare a scheme with respect to any land within the area specified in the resolution; or

(c) adopt, with or without variations, a scheme proposed by all or any of the owners of any such land; or

(d) adopt, with or without variations, a scheme proposed by a Local Authority or by one or more Local Authorities acting jointly.

(2) Notice of such resolution shall be published within the prescribed time in the *Gazette* and in at least one local newspaper at least once in each of two successive weeks, and such resolution shall take effect from the date on which it was first published in the *Gazette*.

(3) Where a resolution under this section has taken effect, the Central Authority may prepare one scheme for dealing with the area to which the resolution applies or if they think fit prepare different schemes for dealing with different parts of the area.

Approval of schemes by the Minister.

6. (1) When the Central Authority have decided to prepare or adopt a scheme, the Central Authority shall with all convenient speed make a draft scheme and submit the same to the Minister for approval.

(2) The Minister may either—

(a) approve of such scheme with or without modification;

(b) require such scheme to be modified; or

(c) require a new scheme to be made and submitted to him.

(3) When the Minister requires a scheme submitted to him to be modified the Central Authority shall modify such scheme accordingly and re-submit such scheme as so modified to the Minister, and thereupon subsection (2) shall apply as if such scheme were then being submitted to the Minister for the first time.

(4) When the Minister requires a new scheme to be made and submitted to him the Central Authority shall make with all convenient speed a new scheme accordingly and submit such scheme to the Minister for approval, and thereupon subsection (2) shall apply as if such submission were the first submission of an original scheme.

(5) When the Minister approves a scheme under this section, the Central Authority shall cause copies of such scheme to be made available for public inspection at the prescribed times and places, and shall within the prescribed time cause to be published in the *Gazette* and in such other manner as they may think fit, notice of such approval.

(6) A scheme when approved by the Minister under this section and published in the *Gazette* shall have full force and effect as from the date of such publication.

7. (1) The Central Authority may at any time apply to the Minister for the revocation or modification of a scheme which has been approved under the preceding section on the following grounds, that is to say—

Revocation or modification of scheme at request of Central Authority.

(a) on account of the amount of the compensation which has been awarded or is likely to be awarded in respect of provisions contained in the scheme;

(b) on account of practical difficulties in the execution or enforcement of such scheme;

(c) on account of events which have occurred since the making of such scheme.

(2) When an application has been made under subsection (1), the Minister may either revoke or modify such scheme or refuse the application.

(3) Whenever a scheme is revoked or modified, the provisions of this Part shall apply in respect of such revoking or modifying scheme in like manner as they apply to the schemes mentioned in the said Part.

Supplementary schemes for areas comprised in regional schemes.

8. (1) In any case where a regional scheme is in operation, the Central Authority may by resolution decide to prepare a scheme with respect to any land to which the regional scheme applies, or to adopt with or without modifications, a scheme proposed by all or any of the owners of any such land.

(2) A scheme prepared or adopted under subsection (1) (in this Act referred to as a "supplementary scheme") shall incorporate, with or without modifications, all such provisions of the regional scheme as relate to the area to which the supplementary scheme applies and are not inconsistent with the provisions thereof, and may include such additional provisions as appear to be necessary or desirable.

(3) A resolution to prepare or adopt a supplementary scheme shall not affect the operation of the regional scheme, but as from the date on which the supplementary scheme comes into operation it shall, so far as respects the area to which it applies, be substituted for the regional scheme.

Local Authority affected by scheme.

9. (1) In any case where a scheme is wholly or in part within the area of a Local Authority, the Central Authority shall before submitting the draft scheme to the Minister for approval, furnish particulars and a copy of the scheme to the Local Authority for their consideration and representations.

(2) If the Local Authority desire to make any objections or representations, in respect of the said scheme, they shall within the prescribed time and manner, submit the same to the Central Authority.

(3) The Central Authority shall consider any objections or representations received by them in pursuance of this section, and shall give full opportunity for such Local Authority to be heard by the Central Authority, and in

submitting the scheme to the Minister for approval shall forward copies of all such objections or representations which have not been met or withdrawn. Thereupon the provisions of section 6 shall apply.

10. Every scheme shall provide for the establishment and maintenance of a register (in this Act referred to as "the register") of all such things as are required by this Act to be entered in the register in relation to or for the purposes of such scheme, and shall also provide for the keeping of such register open to public inspection free of charge in a convenient place at all reasonable times.

Establishment and maintenance of register.

11. (1) The Central Authority may, for any purpose arising in relation to the making, enforcement, or carrying out of a scheme, by notice in writing, require the owner or occupier of any land or building in the area to which such scheme relates or is intended to relate or any person receiving, whether for himself or for another, rent out of any such land or building to state in writing and deliver or forward by registered post to the Central Authority within a specified time not less than twenty-eight days after being so required, particulars of the estate, interest or right by virtue of which he owns or occupies such land or building or receives such rent (as the case may be), and the name and address, and the estate, interest, or right (so far as they are known to him) of every person who to his knowledge has any estate or interest in or right over or in respect of such land or building.

Obligation to give information to Central Authority.

(2) Every person required to make and deliver a statement under this section who shall wilfully make any false statement, or neglect or refuse to make a statement, shall be liable, on summary conviction, to a fine not exceeding one thousand dollars.

12. (1) The Central Authority may at any time cause the whole or any part of any land to be entered upon, examined and surveyed and the circumstances and requirements thereof to be investigated for the purpose of deciding whether a scheme should not be made in respect of any such land or any part thereof and of making such scheme if decided upon.

Powers of entry, examination and survey for preparation of scheme.

(2) Any person authorized in that behalf in writing by the Central Authority may, for the purpose of any entry, examination, survey, or investigation which the Central Authority are authorized by this section to cause to be made: and on production of such written authority, enter and there do any thing which such person shall reasonably consider to be necessary for the said purpose:

Provided that no person shall enter into any building or into or upon any enclosed yard, court or garden attached to any dwelling-house, unless with the consent of the occupier thereof, without previously giving such occupier at least twenty-four hours' notice of his intention so to do.

(3) Every person who wilfully obstructs or interferes with any other person in the exercise by such other person of any power vested in him by virtue of this section shall be liable, on summary conviction, to a fine not exceeding one thousand dollars.

PART III

Interim Development of Land

Interim
development.

13. (1) When the Central Authority have passed a resolution for the making of a scheme the Central Authority may, at any time after passing such resolution and before such scheme comes into operation, do all or any of the following things, that is to say—

(a) grant to any person applying therefor permission in writing to develop land, construct, demolish, alter, extend, repair, or renew a particular building in the area to which such scheme is proposed to relate;

(b) prohibit the further proceeding with the development of land or construction, demolition, alteration, extension, repair, or renewal of any particular building situate in the said area, stating in writing their reasons for such prohibition.

(2) The Central Authority may attach to a permission granted under this section such conditions as they think proper.

(3) A prohibition made by the Central Authority may either prohibit absolutely the further proceeding with the work to which such prohibition relates or prohibit the further proceeding with such work otherwise than under and in accordance with conditions specified in such prohibition.

(4) When the Central Authority have passed a resolution for the making of a scheme and have, before such scheme comes into operation, made a prohibition in relation to any work or other operation as provided for in this section the Minister may, if he is of the opinion that the prejudicial effect of proceeding with or doing the work or other operation to which such prohibition relates would be of such a nature as to be incapable of being remedied, or to involve excessive expenditure of public money, after the coming into operation of such scheme, declare, at any time before such scheme comes into operation, that any contravention of such prohibition before such coming into operation shall be unlawful.

(5) Every person who proceeds with or does any work which is a contravention of a prohibition and is by virtue of a declaration under this section an unlawful contravention of such prohibition shall be liable, on summary conviction, to a fine not exceeding three thousand dollars together with, in the case of a continuing offence, a further fine not exceeding two hundred and fifty dollars for every day during which the offence is continued.

14. (1) Any person aggrieved by the grant or the refusal by the Central Authority of a permission or by the making of a prohibition by the Central Authority under this Part may within twenty-eight days from the date on which he received notice of the decision of the Central Authority appeal to a Judge by notice in writing in which he shall set forth the grounds of his appeal. The Judge shall cause the appellant and the Central Authority to appear before him, and it shall be lawful for him to hear and determine the matters in dispute in a summary manner; and for that purpose to examine such parties or any of them and their witnesses.

Appeal to Judge in relation to permission or prohibition.

(2) The Judge may dismiss or allow the appeal either unconditionally, or subject to such conditions as he thinks proper to impose and allow such costs as he may think fit.

(3) Where on an appeal under this section against the making of a prohibition, such prohibition is revoked by the Judge, or is confirmed by the Judge with new conditions inserted therein or with amendments of the conditions contained therein, the Judge may, if he thinks proper, as part of his determination of the matters the subject of such appeal, direct the Central Authority to pay to the person by whom such an appeal was brought such sum as the Judge shall think proper to specify by way of compensation for loss suffered by such person by reason of such prohibition during the period between the making of such prohibition and the determination of such appeal.

(4) The determination by the Judge of an appeal under this section shall be final and, in so far as it directs the Central Authority to do any act or thing, shall be complied with by the Central Authority

(5) In this section "Judge" does not include a Magistrate.

Power to suspend operation of laws.

15. When the Central Authority have passed a resolution for the making of a scheme, before such scheme comes into operation the Minister with the prior approval of the Legislature may by order published in the *Gazette* suspend the operation of any law relating to development, (including road construction, building operations, or sanitation), where it is expedient in order to promote the development permitted in the area to which the scheme relates.

Compensation for compliance with condition.

16. (1) Whenever a condition is attached to or inserted in a permission or a prohibition and the value of any property is reduced by the due and proper performance or observance of such condition, the provisions of this Act in relation to compensation payable by the Central Authority shall apply. Upon the coming into operation of the scheme in connection with which such permission or prohibition was granted or made, the compensation

payable shall be as if such reduction in value had been occasioned by a restriction on the user of such property affected by a provision contained in such scheme.

(2) Subsection (1) shall not apply or have effect where the condition referred to in that subsection is of such nature that if the scheme referred to in the said subsection had been in operation when such condition was imposed, such condition could have been enforced by a provision in such scheme and no compensation would be payable under this Act on account of or arising from the coming into operation of such provision.

PART IV

Contents and Effects of Schemes

17. (1) Every scheme shall specify and define clearly the area to which it relates. **Contents of schemes.**

(2) Every scheme shall contain such provisions as are necessary or expedient for prohibiting or regulating the development of land in the area to which the scheme applies, and generally for carrying out any of the objects for which the scheme is made, and in particular for dealing with any of the matters mentioned in the Second Schedule. **Second Schedule.**

(3) A scheme may provide for the pooling and re-distribution of lands, or for re-adjustment of the boundaries and areas of any such lands:

Provided however that such lands are not already built upon, or if already built upon, the inclusion of such lands is expedient to the scheme:

Provided further that in the event of any owner not agreeing to the pooling and re-distribution of his land, or to the re-adjustment of the boundaries and areas of his land, the Minister may acquire such land or any part thereof as is necessary for carrying out such scheme.

(4) Any law relating to development, road construction, building operations or sanitation inconsistent with the provisions of a scheme or the application of which would tend to hinder the carrying out of the scheme shall not apply to the area to which the scheme relates.

Assignment of duties to Local Authority.

18. The Central Authority may, with the approval of the Minister, come to an agreement with a Local Authority so named in a scheme and in consequence thereof assign to such Local Authority duties and functions in relation to the enforcement and carrying out of such scheme.

Submission of applications etc. to the Central Authority after the material date.

19. (1) From and after the date of the first publication in the *Gazette* of a resolution embodying the decision of the Central Authority to prepare or adopt a scheme the Local Authority of the area to which the resolution relates, shall submit all applications and proposals for development within that area to the Central Authority for their permission or prohibition as the case may be.

(2) The Local Authority referred to in subsection (1) shall notify the applicant of the decision of the Central Authority as soon as practicable after the receipt thereof.

(3) Any development which the Local Authority itself proposes to carry out within such area shall not be commenced until the permission of the Central Authority has been obtained.

(4) Any application for development received by a Local Authority under any other Act shall be deemed to be an application under this section.

Power to enforce and carry into effect schemes.

20. (1) Subject to the provisions of this section, the Central Authority may at any time—

(a) remove, pull down or alter, so as to bring into conformity with the provisions of the scheme, any building or other work which does not conform to those provisions, or the removal, demolition or alteration of which is necessary for carrying the scheme into effect, or in the erection or carrying out of which any provision of the scheme has not been complied with; or

(b) where any building or land is being used in such a manner as to contravene any provision of the scheme, prohibit it from being so used; or

(c) where any land has since the material date been put to any use which contravenes any provision of the scheme, reinstate the land; or

(d) execute any work which it is the duty of any person to execute under the scheme in any case where delay in the execution of the work has occurred and the efficient operation of the scheme has been or will be thereby prejudiced.

(2) Before taking any action under this section the Central Authority shall serve a notice on the owner and on the occupier of the building or land in respect of which the action is proposed to be taken and on any other person who, in their opinion, may be affected thereby, specifying the nature of the action and the grounds upon which they propose to take that action.

(3) The date stated in a notice served under this section as the date on or after which the intended exercise of the power therein mentioned is intended to be begun shall be not less than three months when any building is affected and in any other event not less than one month after the service of such notice and the Central Authority shall not do any act or thing in exercise of such power in relation to the building or land mentioned in the notice before the said date.

(4) If any person served with such a notice as aforesaid considers the period fixed by such notice to be insufficient or desires to dispute any allegation or matter contained therein, he may within twenty-eight days from the date on which he received such notice appeal to a Judge by notice in writing in which he shall set forth the grounds of his appeal. The Judge shall cause the appellant and the Central Authority to appear before him, and he may hear and determine the matters in dispute in a summary manner; and for that purpose to examine such parties or any of them and their witnesses.

(5) If on any such appeal the Judge is satisfied that the Central Authority are entitled to take the proposed action on the grounds specified in the notice, he shall dismiss the appeal and shall by his order empower the Central Authority, after the expiration of such period as he may decide, to remove, pull down, or alter the building or work, or reinstate the land or execute the required work, or, as the case may be, shall by his order prohibit the building or land

from being used in contravention of the scheme after the period aforesaid, but, if he is not so satisfied, he shall allow the appeal. The Judge shall allow such costs as he may think fit.

(6) Every person who uses any building or land in a manner prohibited under this section, or obstructs or interferes with the exercise by the Central Authority of any power vested in them shall in addition to any civil liability be guilty of an offence and liable, on summary conviction, to a fine not exceeding one thousand dollars.

Power to contribute towards expenses of owners.

21. The Minister, on the recommendation of the Central Authority, may contribute towards the expenses incurred by owners of land in or in connection with a scheme which is adopted by the Central Authority or in co-operating with them in the preparation of a scheme.

General development orders.

22. (1) The Central Authority may by an order (in this Act referred to as a "general development order") permit building operations to proceed, subject to such conditions as may be specified in the order, on any land in respect of which the provisions of a scheme prohibit or restrict building operations pending the coming into operation of a general development order.

A general development order may be made with respect to the whole, or some part only, of the land which is subject to the prohibitions or restrictions, and orders may be made from time to time so long as any part of that land remains so subject.

(2) A general development order may be revoked or varied by a subsequent general development order made by the Central Authority, but so long and in so far as it continues to be operative shall be deemed to form part of the scheme to which it relates.

(3) All general development orders made by the Central Authority shall be submitted to the Minister for approval and shall on being approved be published in the *Gazette* and shall have full force and effect as from the date of such publication.

23. (1) Where the provisions of a scheme prohibit or restrict building operations on any land pending the coming into operation of a general development order, a person who, before such an order comes into operation with respect to that land, desires to commence thereon any building operations which would contravene any such temporary prohibition or restriction may, in accordance with such directions, if any, as may be contained in the scheme, apply to the Central Authority for their consent to the carrying out of the operations specified in the application.

Power to permit building operations.

(2) The Central Authority shall, in deciding any such application, have regard to any injury likely to be caused to the applicant by the refusal of the application, as well as to any public advantage likely to result from the maintenance of the prohibition or restriction, pending the coming into operation of a general development order, and may if they are satisfied that the proposed operations will not contravene any permanent provisions of the scheme, grant the application unconditionally, or subject to such conditions as they think proper to impose:

Provided that they shall not grant an application if they are satisfied that—

(a) the operations would involve danger or injury to health by reason of the lack of roads, drainage, sewers, water supply or any public services and that the provision of the necessary services would be premature, or likely to involve excessive expenditure of public money; or

(b) the operations would be likely to injure the amenities of the locality.

(3) Any person aggrieved by the refusal of any such application as aforesaid, or by any conditions imposed by the Central Authority, may appeal therefrom within the time and in the manner provided for by section 14.

24. The Minister may purchase by agreement any land to which a scheme applies, which is required for the purposes of the scheme, and in particular, but without prejudice to the generality of the foregoing words, he may purchase any such land—

land to which scheme applies.

(a) which is required for carrying out the improvement or controlling the development of frontages to, or of lands abutting on or adjacent to, any road, or any proposed road which is to be constructed wholly or partly at the public expense; or

(b) which is required for securing the satisfactory development of any land in accordance with the provisions of the scheme in any case where, by reason of the land being held in plots which are of inconvenient size or shape, or of which the arrangement or alignment is inconvenient, or by reason of the multiplicity of interests in the land, or by reason of the fact that the land is being used in a manner or for purposes inconsistent with the provisions of the scheme, it does not appear to be reasonably practicable to secure such development otherwise than by purchase of the land; or

(c) which forms the site of a road which has been stopped up under any provision contained in the scheme; or

(d) which is required for the purpose of providing accommodation for a person whose premises have been purchased for the purposes of the scheme.

Compulsory acquisition.

Cap. 233.

Powers of entry, etc., for carrying out a scheme.

25. Where the Minister is unable to purchase by agreement any land which he is authorized to purchase, he may acquire such land in accordance with the provisions of the Land Acquisition Act.

26. (1) Any person authorized in that behalf in writing by the Central Authority may, on production of such written authority, enter on any land in the area to which a scheme relates and there make such inspection, survey, examination and investigation as may be necessary for the purposes of the enforcement or carrying out of such scheme:

Provided that no person shall enter into any building or into or upon any enclosed yard, court or garden attached to any dwelling-house, unless with the consent of the occupier thereof, without previously giving such occupier at least twenty-four hours' notice of his intention so to do.

(2) Every person who wilfully obstructs or interferes with any person in the lawful exercise of any power conferred by this section shall be liable, on summary conviction, to a fine not exceeding seven hundred and fifty dollars.

27. Any person who wilfully does any act (whether of commission or omission) which is a contravention of a provision contained in a scheme shall be liable, on summary conviction, to a fine not exceeding three thousand dollars and, in the case of a continuing offence, to a further fine not exceeding two hundred and fifty dollars for every day during which the offence continues.

Penalty for contravention of a scheme.

PART V

Compensation and Betterment

28. Subject to the provisions of this Act, any person —

Provisions as to compensation for injurious affection, etc.

(a) whose property is injuriously affected by the coming into operation of any provision contained in a scheme, or by the execution of any work under a scheme, or

(b) who for the purpose of complying with any provision contained in a scheme, or in making or resisting a claim under the provisions of this Act relating to compensation and betterment, has incurred expenditure which is rendered abortive by a subsequent revocation or variation of the scheme,

shall, if he makes a claim within the time limited for the purpose by this Act, be entitled to recover as compensation from the Central Authority the amount by which his property is decreased in value, or, so far as it was reasonably incurred, the amount of the abortive expenditure, as the case may be.

29. (1) No compensation shall be payable in respect of any building the erection of which was begun after the material date unless such erection was begun under and in accordance with a permission from the Central Authority.

No compensation in certain classes of cases.

(2) No compensation shall be payable in respect of any of the following provisions in an approved scheme, namely, any provision which —

(a) prescribes the location of buildings, the extent of the yards, gardens and curtilage of buildings; or

(b) imposes any sanitary conditions in connection with buildings; or

(c) limits the number of buildings or the number of buildings of a specified class which may be constructed, erected on, or made in or under any area; or

(d) prohibits or regulates the sub-division of land; or

(e) regulates or empowers the Central Authority to regulate the size, height, spacing, construction and materials of buildings; or

(f) controls, restricts or prohibits the objects which may be affixed to buildings; or

(g) prohibits or restricts building operations, only pending the coming into operation of a general development order; or

(h) prohibits or restricts building operations permanently on the ground that by reason of the situation or nature of the land the erection of buildings thereon would be likely to involve danger or injury to health, or excessive expenditure of public money in the provision of roads, sewers, water supply or other public services; or

(i) prohibits (otherwise than by way of prohibition of building operations) the use of land for a purpose likely to involve danger or injury to health, or detriment to the neighbourhood, or restricts (otherwise than by way of restriction of building operations) the use of land so far as may be necessary for preventing such danger, injury or detriment; or

(j) restricts the purposes for and the manner in which buildings may be used or occupied; or reserves or allocates any particular land or all land in any particular area for buildings of a specified class or classes; or

(k) in the interests of safety, regulates or empowers the Central Authority to regulate the height and position of proposed walls, fences or hedges near the corners or bends of roads; or

(l) limits the number or prescribes the sites of new roads entering a road or the site of a proposed road; or

(m) in the case of land which at no time within the period of two years immediately preceding the material date, was, or formed part of the site of a building, fixes in relation to any road a line beyond which no building in that road or proposed road may project; or

(n) in the case of the erection of any building intended to be used for the purposes of business or industry, requires the provision of accommodation for parking, loading, unloading or fuelling vehicles, with a view to preventing obstruction of traffic on any road; or

(o) prohibits, restricts or controls, either generally or in particular places, the exhibition, whether on the ground, on any building or any temporary erection, or any vehicle, boat, or other moveable object (whether on land or on or in water or in the air), of all or any particular forms of advertisements or other public notices; or

(p) prevents, remedies or removes injury to amenities arising from the ruinous or neglected condition of any building or by the objectionable or neglected condition of any land attached to a building or abutting on a road or situate in a residential area; or

(q) prescribes, in the case of land exceeding one acre in extent reserved for the purpose of being developed as a building area, that a proportion of the land (not exceeding five per centum thereof) be set aside for open spaces in addition to the area required for roads.

(3) Nothing contained in the preceding subsection shall preclude an owner from claiming compensation for loss or injury arising from—

(a) being prevented by the operation of a scheme from maintaining a building which was in existence on the material date, or from continuing to use any such

building for the purpose for which it was used on the material date, or from making reasonable alterations in and (in proper cases) reasonable additions to any such building; or

(b) where a building which was in existence at any time within two years immediately before the material date has been demolished or been destroyed by fire or otherwise, being prevented by the operation of a scheme from erecting, within two years after such demolition or destruction on the site of such demolished or destroyed building a new building which substantially replaces such demolished or destroyed building or from using such new building for the purpose for which such demolished or destroyed building was last used; or

(c) being prohibited or restricted from the winning of minerals by underground or surface working.

Exclusion or limitation of compensation in certain other cases.

30. (1) No compensation shall be payable under this Act in respect of any property on the ground that it has been injuriously affected by any provision contained in a scheme, if and in so far as the same provision or a provision substantially to the same effect, was, at the date when the scheme came into operation, already in force by virtue of any other Act.

(2) A person shall not be entitled to recover compensation under this Act in respect of any action taken under section 20, except in a case where a building which the Central Authority have removed, pulled down or altered, was an existing building at the material date.

(3) Where any provision contained in a scheme could immediately before the date on which the scheme came into operation have been validly included in a scheme by virtue of any other Act, then—

(a) if no compensation would have been payable in respect of injury caused by the coming into operation of that provision in that other scheme, no compensation shall be payable in respect of that provision of the scheme under this Act; and

(b) if compensation would have been payable, the compensation payable in respect of that provision of the scheme under this Act shall not be greater than the compensation which would have been so payable.

(4) Where any provision of a scheme is revoked or varied by a subsequent scheme, no compensation shall be payable in respect of any property on the ground that it has been injuriously affected by any provision contained in the subsequent scheme if and in so far as that later provision is the same, or substantially the same, as the earlier provision so revoked or varied; but if at the date when the revocation or variation of that earlier provision becomes operative—

(a) there is still outstanding any claim for compensation duly made thereunder; or

(b) the time originally limited for making such a claim has not expired,

any such outstanding claim and any such claim made within the time so limited shall be entertained and determined, and may be enforced, in the same manner in all respects as if all the provisions of the earlier scheme had continued in operation.

31. (1) Where by the coming into operation of any provision contained in a scheme, or by the execution of any work under a scheme, any property within the area, to which the scheme applies is increased in value, the Central Authority, if they make a claim for the purpose within three years after the date on which the provision came into operation, or within three years after the completion of the work, as the case may be, recover from any person whose property is so increased in value an amount not exceeding one-half of the amount of that increase.

Recovery of betterment from owners of property increased in value.

(2) Any sum recoverable under this section shall be paid within **30** days after notification of the amount due or by annual instalments over a period of not less than twenty years and not more than thirty years as shall be fixed by the Central Authority together with interest at the rate of three per centum per annum chargeable on the aggregate amount of the instalments for the time being outstanding:

Provided that the person from whom the instalments are due may at any time pay to the Central Authority the whole of any outstanding instalments, together with any interest accruing due thereon to the date of payment.

(3) Where any provision of a scheme is revoked or varied by a subsequent scheme, no property shall be deemed to be increased in value by any provision contained in the subsequent scheme if and in so far as that provision is the same, or substantially the same, as a provision contained in the scheme so revoked or varied:

Provided that, if at the date when the revocation or variation of the said scheme becomes operative there is still outstanding any claim in respect of an increase in the value of any property duly made thereunder, or the time originally limited for making such a claim has not expired, any such outstanding claim, and any such claim made within the time so limited, shall be entertained and determined and may be enforced, in the like manner in all respects as if all the provisions of the earlier scheme had continued in operation.

**Making of claims
for compensation
or betterment.**

32. (1) A claim under this Act for compensation or in respect of an increase in the value of any property shall be made by serving upon the Central Authority or person from whom the amount alleged to be payable is claimed, a notice in writing stating the grounds of the claim and the amount claimed.

(2) Subject to the provisions of this Act a claim under this Act for compensation may be made within twelve months after the date on which the provision giving rise to the claim came into operation or within such longer period as may be specified in the scheme, or in respect of expenditure rendered abortive by the revocation or variation of a scheme, within twelve months after the date on which the action was completed, or the order came into operation, or the revocation or variation of the scheme became operative.

(3) Where it is alleged that land which, at or within two years before the material date, formed the site of a building, has been injuriously affected by a provision fixing, in relation to any road or proposed road, a line beyond which no building in that road or proposed road may

project, then, subject to any agreement to the contrary, the period within which a claim for compensation may be made in respect of that land shall be a period of twelve months after the date on which a new building is erected on the site in conformity with the line so fixed:

Provided that, if in the case of any such land a claimant alleges in his claim, and proves to the satisfaction of a Judge that it is not reasonably practicable to erect any new building on that land in conformity with the line so fixed, and, where the building is standing at the date on which the scheme comes into operation, has before commencing to demolish the building given notice to the Central Authority in accordance with the provisions of subsection (4), a claim made by him at any time within a period of twelve months after the date on which the building is demolished or the date on which the scheme comes into operation, whichever last occurs, shall be deemed to be validly made and shall be entertained by a Judge.

(4) A person who intends to claim compensation in respect of any such land as is mentioned in the proviso to subsection (3) shall, if the building is standing at the date on which the scheme comes into operation, not less than three months before he commences to demolish the building, give notice in writing of his intention to the Central Authority, and the Central Authority may, at any time before the expiration of two months from the receipt by them of the notice, require him to sell the site and the buildings thereon, and thereupon the provisions of this Act with respect to the compulsory acquisition of land shall apply in relation to that site and any buildings thereon as they apply in relation to land required for the purposes of a scheme.

(5) Where it is alleged that property has been injuriously affected by the execution of any work, the period within which a claim in respect of that injurious affection may be made shall be a period of three years after the completion of the work.

33. (1) A scheme may provide that the cost or a portion of the cost of any works to be executed as part of the scheme shall be a special charge upon the property within the whole area or a particular area to the exclusion

Special
assessment;
recovery of
expenses.

of the rest of the area to which the scheme applies, and the Central Authority may fix and apportion the amount of the special charge thereon and the persons by whom and times when the same shall be payable.

(2) Whenever a scheme provides for a special assessment under subsection (1), no claim shall be made by the Central Authority for betterment against the owners of property situate within the particular area to which the assessment relates.

Determination of claims and recovery of amounts due.

34. (1) Any question arising under this Act as to—

(a) the right of a claimant to recover compensation;
or

(b) the right of the Central Authority to recover any amount in respect of an increase in the value of any property or by way of a special charge on any property;
or

(c) the amount and manner of payment of any such recoverable compensation or amount as aforesaid,

shall, unless the Central Authority and all persons concerned otherwise agree, be referred to and determined by a Judge by notice in writing. The Judge shall cause the respective parties to appear before him and may hear and determine the claim in a summary manner, and for that purpose to examine the parties or any of them and their witnesses. The determination by a Judge of a claim under this section shall be final and he shall allow such costs as he may think fit.

(2) The Judge charged with the duty of determining any claim as aforesaid—

(a) shall have regard to any undertaking which the Central Authority, or the person against whom the claim is made, may have given; and

(b) if the question arises out of the coming into operation of a supplementary scheme, shall take into account any amount which the Central Authority have paid or are liable to pay, or have recovered or are entitled to recover, in respect of that property by reason of the coming into operation of the original

scheme, or any other scheme; and

(c) if any contribution has been made by the Central Authority under the provisions of this Act relating to interim development shall take into account that contribution.

(3) Any amount due to the Central Authority from a person whose property is increased in value may be recovered as a civil debt.

35. Any charge or sum due and payable under section **31** or section **33** shall, after the expiration of three months from the time the same became due and payable, be recoverable from the owner of the property as a civil debt.

Recovery of charge or other sum due to the Central Authority.

PART VI

Miscellaneous

36. Every proceeding instituted against an offender in respect of any offence against any of the provisions of this Act shall be taken in the name and at the instance of the Secretary of the Central Authority.

Proceedings how instituted.

37. (1) All monies received by the Central Authority by way of betterment, or otherwise, shall be paid into the Treasury for the use of Antigua and Barbuda.

Application of moneys paid by way of betterment, etc.

(2) All expenses incurred by the Central Authority in the discharge of their functions and all amounts due by them under this Act shall, unless otherwise provided for, be defrayed from public funds.

38. Any amount due to or by the Central Authority for any work done or expenses incurred under the provisions of this Act may be recovered as a civil debt.

Recovery of amounts due to or by Central Authority.

39. (1) Where any application is made under this Act to a Magistrate, the Magistrate may summon the parties to appear before him at a time and place to be named in the summons and upon the appearance of such parties, or in the absence of any of them, upon proof of the due service of the summons, the Magistrate may hear and determine

Summary procedure.

the question at issue and the amount of any compensation, and for that purpose examine such parties or any of them and their witnesses upon oath, and the cost of every such inquiry shall be at his discretion and he shall settle the amount thereof.

(2) There shall be a right of appeal to a Judge in Chambers from any decision of a Magistrate and the decision of the Judge in Chambers shall be final:

Provided the appeal is entered within twenty-eight days of the date of such decision.

Service of notices,
etc. on Central
Authority.

40. (1) Any notice, summons, writ or other proceeding at law or otherwise required to be served on the Central Authority for any of the purposes of this Act may be served upon them by delivering it to their secretary, or by leaving it at their office with some person employed there, or by sending it by post in a registered letter addressed to the Central Authority or their secretary at their office.

(2) Subject to the provisions of subsection (1) any notice, order, or other document required or authorized to be served under this Act may be served either —

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

(b) by leaving it at the usual or last known place of abode of that person; or

(c) by sending it in a prepaid letter addressed to that person at his usual or last known place of abode; or

(d) in the case of an incorporated company or body by delivering it to the secretary or clerk of the company or body at their registered or principal office or sending it in a prepaid letter addressed to the secretary or clerk of the company or body at that office; or

(e) if it is not practicable after reasonable inquiry to ascertain the name or address of any person on whom it should be served, by addressing it to him by the description of "owner" or "lessee" or "occupier" (or as the case may be) of the premises (naming them) to

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

41. For the purpose of co-operating with the Central Authority in the preparation or the carrying into effect of a scheme, any public department or Local Authority may, subject to the approval of the Minister, enter into agreements for securing that any land which is under their control, or which is in their occupation or vested in them for public purposes or for the public service, shall, so far as may be provided by any such agreement, be laid out and used in conformity with the general objects of the scheme, and any agreement so made may contain such consequential and incidental provisions, including provisions of a financial character, as appear to be necessary or desirable having regard to the contents or proposed contents of the scheme.

Power of public departments, etc. to make agreements in connection with schemes.

SCHEDULES

FIRST SCHEDULE

S. 4.

Matters in Relation to which Regulations shall be made

1. The documents and matters (including maps and plans) which are to be deposited by the Central Authority; the places in which and time at or within which such documents are to be deposited.

2. The inspection, by persons interested, of documents (including maps and plans) deposited in pursuance of the regulations.

3. The manner in which, and the times at or within which objections to or representations in respect of a scheme may be made to the Central Authority.

4. The notices to be given by the Central Authority and the time, place, nature, and means by which such notices are to be given and published.

5. Securing co-operation by the Central Authority with owners of property and other persons likely to be affected by the scheme.

6. For securing that Local Authorities who are likely to be affected by a scheme shall, as soon as possible after the passing of a resolution for the preparation of a scheme, receive notice of the passing of such resolution and shall be furnished by the Central Authority with a copy of the scheme before it is submitted to the Minister.

7. For enabling the Central Authority to obtain (without charge) information which they require for the purposes of or in connection with the preparation or making or carrying into effect of schemes by inspection of or obtaining copies from assessment rolls, rate books and other similar documents which are not in their custody.

8. For enabling the Central Authority to deal with lands and buildings, the ownership of which is doubtful or uncertain.

SECOND SCHEDULE

S. 17(2).

Matters to be dealt with by Schemes

PART I

Roads

1. Providing for the reservation of land for roads, the construction of new roads, improvement of existing roads, establishment of public rights of way.

2. Providing for the closing or diversion of existing roads and public and private rights of way and traces.

3. Restricting and controlling the construction of new roads and the alteration of existing roads whether by the Central Authority or owners.

4. Regulating the line, width, level, construction and general dimensions and character of roads whether new or existing.

5. Enabling the Central Authority to require an owner of land as a condition of his developing such land in any manner—

(a) to reserve land for such roads as they may think necessary;

(b) to construct such roads as they may think necessary, or improve existing roads; or

(c) to contribute to the cost of the construction of new roads or the improvement of existing roads by the Central Authority.

6. Providing for and generally regulating the construction or execution whether by the Central Authority or by owners of works incidental to the making or improvement of any road including the erection of shelters, provision of seats, planting or protecting of grass, trees, and shrubs on or adjoining such road.

PART II

Buildings and Other Structures

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

(a) the size, height, spacing and building line of buildings;

(b) the objects which may be affixed to buildings;

(c) the location of buildings, the extent of yards, gardens and curtilage of buildings;

(d) the purposes for and the manner in which buildings may be used or occupied including, in the case of dwelling-houses, the letting thereof in separate tenements;

(e) the prohibition of building operations on any land, or regulating such operations.

2. Regulating and controlling or enabling the Central Authority to regulate and control the construction and materials of buildings and fences.

3. Reserving or allocating any particular land or all land in any particular area for buildings of a specified class or classes, or prohibiting or restricting either permanently or temporarily, the making of any buildings or any particular class or classes of buildings on any specified land.

4. Limiting the number of buildings or the number of buildings of a specified class which may be constructed, erected or made on, in or under any area.

5. Providing for the removal, demolition, or alteration of buildings or works which are inconsistent with, or obstruct the operation of a scheme.

6. Providing for sanitary conditions.

PART III

Community Planning

1. Regulating and controlling the layout of housing areas, including the density, spacing, grouping and orientation of houses in relation to roads, open spaces and other buildings.

2. Regulating and controlling the provision and siting of community facilities, including shops, schools, churches, meeting halls, play centres and recreation grounds, in relation to the number and siting of houses.

PART IV

Amenities

1. Providing for the zoning of land in town and country areas (whether public or private; whether built on or unbuilt on) reserving it for specific purposes. Such purposes would include agriculture, forestry, industry, commerce, housing and open spaces (including recreation, burial grounds and national parks).

2. Providing for the preservation of views and prospects and of the amenities of places and features of natural beauty or interest.

3. Providing for the preservation of buildings and objects of artistic, architectural, archaeological, or historical interest.

4. Providing for the preservation or protection of forest?, woods, trees, shrubs, plants and flowers.

5. Prohibiting, restricting or controlling, either generally or in particular places, the exhibition, whether on the ground, on any building, or any temporary erection, on any vehicle, boat or other moveable object, whether on land, or on, or in water or in the air, of all or any particular forms of advertisement or other public notices.

6. Preventing, remedying or removing injury to amenities arising from the ruinous or neglected condition of any building or fence, or by the objectionable or neglected condition of any

land attached to a building or fence or abutting on a road or situate in a residential area.

7. The prohibition, regulation and control of the deposit or disposal of waste materials and refuse.

PART V

Public Services

Facilitating the construction of works by statutory undertakers in relation to lighting, water supply, sewerage, drainage, sewerage disposal and refuse disposal or other public services.

PART VI

Transport and Communication

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

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

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

PART VII

Miscellaneous

1. Declaring the persons by whom and the manner in which the cost of the execution of works (whether of construction, demolition, removal or alteration) in pursuance of the scheme are to be borne.

2. Subject to any regulations made under the provisions of the Act declaring the notices to be served for the purposes of the scheme by the Central Authority and the persons on whom, the manner in which, and the times at or within which such notices are to be served.

3. Subject to the provisions of the Act and the said regulations declaring the manner in which and the times at or within which notice for the purposes of the scheme may be served on the Central Authority by other persons.

4. Providing for and regulating the making of agreements for the purpose of a scheme by the Central Authority with owners and other persons and by such persons with one another.

5. Dealing with the use or disposal of land acquired under the provisions of the Act.

6. Prohibiting the sub-division of land until a plan showing the sub-division and proposed access to the land has been approved.

7. Making any provisions necessary for—

(a) the pooling of lands of several owners (or any lands, roads or rights of way adjacent or near thereto);

(b) the re-distribution of such land among such owners;

(c) adjusting and altering the boundaries and areas of any such lands, roads, rights of way or traces;

(d) effecting such exchanges of land or cancellation of existing sub-divisions as may be necessary or convenient for the purposes aforesaid;

(e) apportionment of survey fees, cost of issuing or obtaining new titles and any other expenses in connection with the foregoing among the owners concerned.

8. Providing for and regulating the construction, alteration, removal and use of railways, pipe lines, telegraph, telephone lines, and electric current transmission lines, drainage or irrigation channels, aerial cable ways and ancillary structures.

9. Works ancillary to or consequent on a scheme.

10. Any other matter (not hereinbefore mentioned) necessary or incidental to a scheme, or its administration.

The mention of particular matters in this Schedule shall not be held to prejudice or affect the generality of any other matter.
