

ANTIGUA AND BARBUDA



PHYSICAL PLANNING (AMENDMENT) BILL, 2024

No. of 2024

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AN ACT to amend the Physical Planning Act 2003, No. 6 of 2003 to provide for the introduction of a Deputy Town and Country Planner, to revise the powers of entry and the penalties for various offences and breaches of the Act and for other incidental and connected purposes.

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. Short title

This Act may be cited as the Physical Planning (Amendment) Act, 2024.

2. Interpretation

In this Act, “principal Act” means the Physical Planning Act 2003, No. 6 of 2003.

3. Amendment of section 2 - Interpretation

Section 2 of the principal Act is amended by inserting in the appropriate alphabetical position the following—

“Building Code” means the Building Code of Antigua and Barbuda; and

“working hours” means 6 a.m. to 6 p.m. Monday through Friday

4. Amendment of Section 6 – Town and Country Planner, Secretary, Officers and employees of the Authority

Section 6 of the principal Act is amended —

(a) in subsection (1) by adding immediately after the words “Town and Country Planner”, the words “Deputy Town and Country Planner”; and

(b) by repealing subsection (5) and replacing it as follows:

“(5) The Town and Country Planner shall sign and issue all development permits, refusals of development permission, enforcement notices and other documents authorized by the Authority under the provisions of this Act and in the absence of the Town and Country Planner the Deputy Town and Country Planner shall sign and issue all such aforementioned documents.”

5. Amendment of section 7 – Exercise of functions of Town and Country Planner

Section 7 of the principal Act is amended by repealing subsection (1) in its entirety and replacing it with the following—

“(1) Functions assigned to the Town and Country Planner by or under this Act, other than the provisions of subsection (5) of section 6, may be exercised by the Deputy Town and Country Planner or any planning officer authorized by the Town and Country Planner in writing, either generally or specially, in that behalf.”

6. Amendment of section 34 – Enforcement Notice

Section 34 of the principal Act is amended by—

- a) inserting a new subsection immediately after subsection (4) thereof as follows:

“(4A) An enforcement notice shall be considered duly served if served in accordance with subsection (4) or if served by posting or placing the enforcement notice in a conspicuous place on the property in question.”

- b) inserting immediately after subsection (9) the following new subsections:

“(10) the Authority may, from time to time, cause a list of enforcement notices to be published in the Gazette, on a website or social media source determined appropriate by the Town and Country Planner or, in the absence of the Town and Country Planner, the Deputy Town and Country Planner, in any news media of widely circulated in Antigua and Barbuda.

(11) Where an enforcement notice is issued under subsection (4), the Authority may cause the notice to be displayed in a conspicuous place in a police station, post office, or other place in an area close to which the development work is being carried out, as notice to the public.”

7. Amendment of section 74- Powers of entry

Section 74(1) of the principal Act is amended by inserting the words “or at such other time as may be agreed between the Authority and the owner or occupier of the property”, immediately after the words “during working hours”.

8. Amendment of Section 78 – Notification of decisions to Registrar of Land

Section 78 of the principal Act is amended by inserting after paragraph (h) the following new paragraph—

“(i) any restrictive covenants imposed on an approved subdivision development by the Authority.”

9. Amendment of section 80 - Offences

Section 80 of the principal Act is amended in subsection (1) as follows –

(a) by repealing paragraph (d) thereof and replacing it as follows –

“(d) fails to comply with any regulations made with respect to the control of any activities in, or the management of, any environmental protection area, commits an offence and is liable –

(i) on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years, or both;

(ii) on conviction on indictment, to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding three years, or both.”

(b) by inserting after paragraph (d), the following new paragraph –

“(e) fails to comply with regulations made pursuant to section 58 or 81 of this Act, commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years, or both.”

10. Amendment of section 81 - Regulations

Section 81 of the principal Act is amended —

(a) in subsection (2), by adding a new paragraph as follows –

“(o) subdivisions.”

(b) in subsection (3), by inserting after the word “section” the following -

EXPLANATORY MEMORANDUM

The Physical Planning (Amendment) Bill, 2024, seeks to modernize our existing law to enhance the efficiency and effectiveness of the planning process. This Bill is a result of thorough consultations with the Development Control Authority (DCA), aiming to address current challenges and streamline operations.

Clauses 1 and 2: Short title and Interpretation: These are standard. The Short title of the Bill is the Physical Planning (Amendment) Bill 2024 and it is a Bill to amend the Physical Planning Act 2003, No. 6 of 2003.

Clause 3: Amendment of section 2 of the principal Act. This clause amends the interpretation section to include definitions essential for clarity and effective implementation of the Act:

- **Building Code:** This term is defined to align with modern standards and regulations, ensuring consistency in the application of building practices.
- **Working Hours:** The term 'working hours' is specified to provide clarity on operational timelines, facilitating better compliance and coordination.

Clause 4: This clause introduces a new position, the Deputy Town and Country Planner, who is authorized to assist the current Town and Country Planner. This addition aims to enhance the administrative capacity and improve the efficiency of the planning process.

Clause 5: Provision is made for the Deputy Town and Country Planner to exercise the functions of the Town and Country Planner. This ensures continuity and stability in the planning department, allowing for a more responsive and effective service.

Clause 6: This clause introduces a new provision concerning the service of enforcement notices. An enforcement notice shall be considered duly served if done in compliance with the new provision, thereby strengthening the enforcement mechanism and ensuring legal robustness.

Clause 7: This clause amends the powers of entry by adding the words "or at such other time as may be agreed between the Authority and the owner or occupier of the property." This amendment provides flexibility and fosters cooperation between the Authority and property owners or occupiers, facilitating a smoother inspection process.

Clause 8: This clause adds 'any other restrictive covenants' to the list within the relevant section. This inclusion aims to cover all possible restrictive covenants, ensuring comprehensive regulation and oversight.

Clause 9: This clause amends the section to introduce more stringent penalties for non-compliance. The increase in penalties is designed to deter violations and encourage adherence to planning regulations, promoting a culture of compliance.

Clause 10: This clause enhances the regulation section to make it more relevant to the wishes of the Development Control Authority. This amendment permits the issue of penalties for breaches of regulations in an amount \$50,000. A person may choose, instead of going to court, to pay the penalty. This amendment ensures that the regulatory framework is practical and effectively supports the planning process.

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Hon. Maria Browne
Minister with responsibility for Lands and the DCA