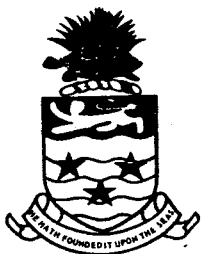


CAYMAN ISLANDS



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**THE DEVELOPMENT AND PLANNING
(AMENDMENT) LAW, 1977**

CAYMAN ISLANDS

A BILL FOR A LAW

**TO AMEND THE DEVELOPMENT AND PLANNING LAW, 1971
(No. 28 of 1971)**

MEMORANDUM OF OBJECTS AND REASONS

The purpose of this Bill is to make a number of unrelated amendments to the Development and Planning Law, 1971.

Principal among these is the bringing into effect of the first development plan for Grand Cayman, the conferring of new powers on the Development Control Board and the provision of a procedure for dealing with appeals from its decisions.

A LAW to amend the Development and Planning Law, 1971. (No. 28 of 1971).

ENACTED by the Legislature of the Cayman Islands.

Short title.

1. This Law may be cited as the Development and Planning (Amendment) Law, 1977.

Amendment of
section 2 of the
Development and
Planning Law, 1971.
(No. 28 of 1971).

2. Section 2(1) of the Development and Planning Law, 1971 (hereinafter referred to as the principal Law), is hereby amended as follows —

(a) by deleting the definitions “relocation of business or industry” and “replacement of open space”;

(b) by inserting in their appropriate alphabetical sequence the following new definitions —

“outline planning permission” means permission for the erection of a building or for the use of land, which permission is granted subject to a condition that approval be given by the Authority at some later time to the siting, design, density, or external appearance of any such building or the means of access;

“Lesser Islands Appeal Tribunal” means the Lesser Islands Appeal Tribunal established under section 39A (1);

“primary use” within a zone includes any use which is subsidiary to, and compatible with, the primary purpose of that zone;

(c) by substituting for the words “a plan made under subsection (7) of that section” where they appear in the definition “development plan” the words “the plan deemed to be the first development plan of the Cayman Islands under section 6 A;” and

(d) by deleting from the definition "subdivision" the words "more than six".

Amendment of
section 3 of the
principal Law.

3. Section 3 of the principal Law is hereby amended —

(a) in subsection (2) thereof substituting the word "nine" for the word "eight";

(b) by deleting subsection (3) and substituting the following new subsection therefor —

"(3) The Chairman and one other member of the Board shall be appointed members of the Authority.";

(c) in subsection (4) thereof by substituting the word "four" for the word "three".

Replacement of
section 6 of the
principal Law.

4. Section 6 of the principal Law is hereby repealed and replaced as follows —

"Preparation
development plans.

(1) A development plan includes such maps and descriptive matter in the form of a planning statement as may be necessary to illustrate its proposals with such degree of particularity as may be appropriate to different parts of the Islands; and a development plan may, in particular —

(a) define the sites of proposed roads, public and other buildings and works, airfields, parks, pleasure grounds, nature reserves and other open spaces;

(b) allocate areas of land for use for agricultural, residential, industrial or other purposes of any use or class specified in the plan;

(c) designate, as land subject to acquisition by the Authority —

(i) land allocated by the plan for purposes of any of their functions or the functions of a statutory undertaker or highway authority;

(ii) other land that, in the opinion of the Authority, ought to be subject to acquisition by the Authority for the purpose of securing its use in the manner proposed by the plan.

(2) A development plan shall not designate any land as land subject to acquisition by the Authority if it appears to it that the acquisition is not likely to take place within five years from the date on which the plan is approved.

(3) Where any land is designated by a development plan as subject to acquisition by the Authority, then if at the expiration of one year from the date on which the plan, or the amendment of the plan, by virtue of which the land was first so designated came into operation, any of that land has not been acquired by the Authority, any

owner of an interest in the land may serve on the Authority a notice requiring the interest of the owner in the land to be so acquired and if within six months after the service of that notice, or such longer period as may be agreed between the Authority and the owner, the interest of the owner has not been so acquired, the development plan shall have effect, after the expiration of the said six months, as if the land in which the said interest subsists was not designated as subject to acquisition by the Authority, but subject to such alternate restrictions as to user as shall be specified in the development plan.

(4) Without prejudice to the provisions of subsection (1), a development plan may make provision for any of the matters mentioned in the Second Schedule."

Second Schedule.

Amendment of the principal Law by addition of new section 6A.

5. The principal Law is hereby amended by adding, immediately following section 6 thereof, the following new section —

"First development plan for the whole of the Cayman Islands.

6A. Any other provision of this Law to the contrary notwithstanding, the paper entitled The Planning Statement for the Cayman Islands, 1977, together with its Appendices and accompanying map approved by a resolution of the Legislative Assembly on the day of , 1977 shall be deemed to be the first development plan for the whole of the Cayman Islands and to have been prepared and approved in accordance, and after full and proper compliance with, this Law."

Amendment of section 7 of the principal Law.

6. Section 7 of the principal Law is hereby amended —

(a) by repealing subsection (2) thereof and replacing it with the following new subsection —

"(2) Notwithstanding the provisions of subsection (1), the Authority —

(i) shall, if at any time so required by the Governor, or by a resolution of the Legislative Assembly,

(ii) may, whenever it appears expedient,

submit to the Legislative Assembly proposals for alterations or additions to any development plan."; and

(b) by repealing subsection (3) thereof.

Amendment of section 8 of the principal Law.

7. Section 8 of the principal Law is hereby amended as follows —

(a) in subsection (2) thereof, by substituting the words "in two issues in each of two consecutive weeks" for the words "in two consecutive issues";

(b) in subsection (4) thereof, by inserting, immediately following the word "but", the words "unless otherwise directed by the Governor,"; and

(c) by repealing subsections (5), (6) and (7) thereof.

Amendment of

8. Section 10 of the principal Law is hereby amended —

(a) by repealing subsection (1) and replacing it with the following new subsection —

“(1) Subject to the provisions of this Law, permission shall be required under this Part for any development of land that is carried out after the appointed day. Except where otherwise provided for by this Law, permission shall not be given which would result in a development at variance with a development plan and, in particular in the case of development in the Lesser Islands, at variance with the guidelines therefor contained in any such plan.”;

(b) in subsection (2) thereof —

(i) by deleting from paragraph (a) thereof the words “single storey”;

(ii) by inserting, immediately following the words “the carrying out” at the beginning of paragraph (c) thereof, the words “, with the approval of the Chief Engineer,”;

(iii) by substituting for paragraph (e) thereof the following new paragraph —

“(e) the use of any land for the purpose of agriculture (except living accommodation, grazing, dairy farming, the breeding or keeping of livestock, or the farming of turtles in confinement);”

(iv) by the addition at the end thereof of the following two new paragraphs —

“(f) the erection or construction of gates, fences, walls or other means of enclosure not being within any setback adjacent to the sea, not exceeding 3 feet 6 inches in height and not constructed of sheet metal;

(g) the enlargement, improvement or other alteration of a dwelling house provided that —

(i) the square footage of the enlargement does not exceed one-tenth of the square footage of the ground floor of the house;

(ii) the enlargement is single storey;

(iii) the regulations governing the setback of buildings and coverage of site are upheld;

(iv) the enlargement is an integral part of the existing dwelling; and

(v) a notice of intention to construct under this section is forwarded to the Authority.”; and

(c) by adding the following three new subsections thereto —

“(4) Approval will be given to the subdivision of land into six lots or less subject to compliance with zoning, access and other requirements.

(5) Permission to develop land the primary purpose of which is residential for a commercial or agricultural purpose may be given by the Authority if it is satisfied that —

(a) the applicant has published adequate notice in two consecutive issues of a public newspaper circulating in the Islands; and

(b) no objection which the Authority regards as raising grounds for the refusal of such permission is received by it within twenty-one days of the publication of the second of such issues.

(6) Subject to subsection (5), permission to develop land the primary purpose of which is for residential use for any purpose other than such use shall not be granted unless the Authority is satisfied that —

(a) the applicant has published adequate notice of his application for such permission in four consecutive issues of a public newspaper circulating in the Islands; and

(b) consent to the granting of such approval has been given by a majority of all persons of full legal capacity who for the time being own land or reside within a radius of one thousand and five hundred feet of the boundaries of the land to which the application relates.”.

Repeal and replacement of section 11.

9. Section 11 of the principal Law is hereby repealed and replaced by the following Section —

“Functions of the Board.

11. (1) There is hereby conferred exclusively upon the Board in relation only to the Lesser Islands the functions and powers (which but for this section would be exercisable or enjoyable by the Authority) provided by the following sections —

section 12 (save subsection (5) and (6));
section 16;
section 21
section 22;
section 22A;
section 33 and
section 35.

(2) In the absence of express provision to the contrary nothing in subsection (1) shall serve, by implication or otherwise, to confer upon the Board any other of the Authority’s functions or powers under this Law.”.

Amendment of section 12 of the principal Law.

10. Section 12 of the principal Law is hereby amended —

(a) in subsection (1) thereof by substituting the words “5(1), where application is made to the Authority for outline planning permission or” for the words “13, where application is made to the Authority”;

(b) by re-numbering subsection (3) as subsection (5);

(c) by adding the following two new subsections immediately following subsection (2) —

“(3) Approval granted by the Authority remains effective for one year only from the date of promulgation thereof.

(4) Notice of application for planning permission must be served upon all adjacent owners and copies of such notices enclosed with the relevant application to the Authority which will not consider applications in the absence of evidence of service of such notices.”;

(d) by adding the following new subsection at the end thereof —

"(6) Subject to the provisions of section 40A the decision of the Board on any application to it under this section shall be final."

Repeal of sections 13 and 14 of the principal Law.
Amendment of section 17(1) of the principal Law.

11. Sections 13 and 14 of the principal Law are hereby repealed.

12. Section 17 (1) of the principal Law is hereby amended as follows —

(a) by substituting the words "one year" for the words "four years" where they twice appear therein;

(b) by substituting the word "non-compliance" for the word "non-complicance".

Amendment of section 19 of the principal Law.

13. Section 19(1) of the principal Law is hereby amended by inserting, immediately following the word "owner", the word "or occupier".

Addition of new section 21A. to principal Law.

14. The principal Law is hereby amended by the addition of the following new section immediately following section 21 thereof —

"Storm belts

21A. Storm belts as indicated on a development plan shall not be the subject of development or clearance other than by persons authorised in that behalf by the Authority and to the extent and in the manner, if any, directed by it."

Amendment of section 22A of the principal Law.

15. Section 22A of the principal Law is hereby amended as follows —

(a) by adding the following proviso thereto —

"Provided that nothing in this subsection shall apply to the taking or removal for domestic purposes by any person of any of the substances hereinbefore referred to in a quantity not exceeding one cubic yard in any one month.

(b) by renumbering the said section as subsection (1); and

(c) by adding the following new subsection thereto —

"(2) Whoever, in any area or land referred to in subsection (1), is found by any constable in possession or control of sand, gravel, pebbles, stone, coral or other filling loaded or being loaded in or being unloaded from any vehicle shall be deemed to have contravened subsection (1) until he proves the contrary."

Repeal and replacement of section 24 of the principal Law.

16. Section 24 of the principal Law is hereby repealed and replaced as follows —

"Definition of 'planning decision'.

24. In this Part, "planning decision" means in the case of an application for permission to develop made under Part III, a refusal of that permission, or a grant thereof whether or not subject to conditions."

Amendment of Section 30(1) of the principal Law.

17. Section 30(1) of the principal Law is hereby amended by the substitution, for the words "shall proceed", the words "may proceed".

Repeal of section 31 of the principal Law.

18. Section 31 of the principal Law is hereby repealed.

Amendment of section 39(3) of the principal Law.

19. Section 39(3) of the principal Law is hereby amended by deleting the words "a sum" and substituting the words "subsistence and travelling allowances at a

principal Law.

rate" therefor.

Addition of new
section 39A to the
principal Law.

20. The principal Law is hereby amended by the addition, immediately following section 39 thereof, of the following new section —

"Lesser Islands
Appeal Tribunal.

39A. (1) For the purposes of this Law there is hereby established a Lesser Islands Appeal Tribunal which shall consist of a Chairman and three other members appointed by and holding office at the pleasure of the Governor. The Chairman shall be a person holding the office of Magistrate and the members shall be persons for the time being resident in one of the Lesser Islands.

(2) The Chairman and any two other members of the Lesser Islands Appeal Tribunal shall form a quorum.

(3) Members of the Lesser Islands Appeal Tribunal (other than the Chairman) shall be entitled to be paid out of the Public Treasury subsistence and travelling allowances at a rate equivalent to the agreed rate paid to members of the Legislative Assembly."

Addition of new
section 40A to the
principal Law.

21. The principal Law is hereby amended by the addition, immediately following section 40, of the following new section —

"Appeals against
decisions of the
Board.

40A. (1) Any person aggrieved by a decision of the Board may within ten days after receipt of notification of such decision (or within such longer period as the Lesser Islands Appeal Tribunal may in any particular case allow for good cause) appeal by way of rehearing to the Lesser Islands Appeal Tribunal against such decision on the ground that —

(a) it is erroneous in law;

(b) it is unreasonable;

(c) it is contrary to the principles of natural justice;
or

(d) it is at variance with a development plan having effect in relation thereto;

but not otherwise.

(2) The provisions of subsections (2), (4), (5) and (6) of section 40 shall apply to appeals under this section as if references in the former section to "the Tribunal" were references to the Lesser Islands Appeals Tribunal.

(3) The Chairman of the Lesser Islands Appeals Tribunal shall not have an original vote, but in the event of the other members of the Tribunal being equally divided he shall have a casting vote."

Repeal and
replacement of
section 43(1) of the
principal Law.

22. Section 43(1) of the principal Law is hereby repealed and replaced by the following new subsection —

"(1) Subject to the provisions of subsection (2), nothing in this Law shall derogate from the provisions of the following Laws —

Law 6 of 1976.
Cap. 81.
Cap. 102.
Cap. 103.

Cap. 123.
Law 21 of 1974.
Law 18 of 1974.
Law 8 of 1976.

- (a) The Governor (Vesting of Lands) Law (Revised);
- (b) The Hotels Aid Law, 1976;
- (c) The Land Acquisition Law;
- (d) The Minerals (Vesting) Law;
- (e) The Mining Law;
- (f) The Mosquito Research and Control Law (Revised);
- (g) The Petroleum (Production) Law;
- (h) The Public Health Law, 1974;
- (i) The Roads Law, 1974;
- (j) The Animals Law, 1976."

Addition of new
section 47 to the
principal Law.

23. The principal Law is hereby amended by the addition of the following new section —

"General penalty.

47. Whoever contravenes any provision of this Law for which no penalty is elsewhere prescribed is guilty of an offence and liable on summary conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding one year or both."

Passed the Legislative Assembly this day of , 1977.

President

Clerk of the Legislative Assembly.