



The Official Gazette

PUBLISHED
BY
AUTHORITY

VOL. CLVI No. 143

Part A

BRIDGETOWN, BARBADOS, 7TH DECEMBER, 2021

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S.I. 2021 No. 87



By Her Excellency The Most Honourable Dame Sandra Prunella Mason, Freedom of Barbados, Dame Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Dame of Saint Andrew, Queen's Counsel, Doctor of Laws, President of Barbados.

S. MASON

President

A PROCLAMATION

WHEREAS it is provided by section 110 of the *Planning and Development Act, 2019* (Act 2019-5) that the said Act shall come into operation on a date to be fixed by Proclamation:

AND WHEREAS it is expedient that the said Act, with the exception of sections 44, 44A, 44B, 44C, 44D, 44E, 44F, 44G, 44H and 44I shall come into operation on the 7th day of December, 2021:

NOW THEREFORE by virtue of the power and authority in me vested, I hereby appoint the 7th day of December, 2021 as the day on which the said Act, with the exception of sections 44, 44A, 44B, 44C, 44D, 44E, 44F, 44G, 44H and 44I, shall come into operation.

Given under my hand and the
Public Seal of Barbados this 7th day
of December, 2021.



BARBADOS

PLANNING AND DEVELOPMENT (AMENDMENT) ACT, 2020-34

Arrangement of Sections

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SCHEDULE

BARBADOS

I assent
S. MASON
Governor-General
29th June, 2020.

2020-34

An Act to amend the *Planning and Development Act, 2019* (Act 2019-5)

[Commencement: 7th December, 2021]

ENACTED by the Parliament of Barbados as follows:

Short title

1. This Act may be cited as the *Planning and Development (Amendment) Act, 2020*.

Amendment of section 2 of Act 2019-5

2. Section 2 of the Planning and Development Act, 2019 (Act 2019-5), in this Act referred to as “the principal Act”, is amended

- (a) by deleting the definitions of “building operations, Chief Town Planner, registered professional architect, registered professional engineer”;**
- (b) by inserting the following definitions in the appropriate alphabetical order**

“ “Building Code” means the Code of engineering, design and public health standards applicable to the construction of buildings provided for by the building regulations;

“building operations” includes demolition operations, rebuilding operations, structural alterations of or additions to buildings and other operations normally undertaken by a person carrying on business as a builder;

“building permit” means a permit for the purpose of carrying out building works granted under section 44A;

“building regulations” means regulations made under section 44H;

“Director” means the Director of Planning and Development referred to in section 8;

“occupancy certificate” means a certificate granted under section 44E in relation to the occupation of a building after the completion of building works;

“professional governing body” means the body established by an Act listed in the *First Schedule* for the purpose of regulating the practice of the profession governed by that legislation;

“registered professional” includes a professional architect, engineer, land surveyor or planner registered by the professional governing body for that profession;”.

Amendment of Act 2019–5

3. *The principal Act is amended by deleting the words “Chief Town Planner” wherever they appear and substituting the word “Director”.*

Amendment of section 6 of Act 2019-5

4. *Section 6 of the Act is amended*

(a) *by deleting subsection (10) and substituting the following new subsection:*

“(10) The Board shall appoint

(a) a “Design and Engineering Committee”;

(b) an “Environmental Impact Assessment Committee”; and

(c) such other *ad hoc* committees or working groups as it thinks fit to assist in the performance of its functions.”; and

(b) *by inserting immediately after subsection (10) the following new subsection:*

“(10A The constitution, functions and procedures of the Design and) Engineering Committee and the Environmental Impact Assessment Committee are set out in the *Second Schedule* and *Third Schedule* respectively.”.

Amendment of section 7 of Act 2019-5

5. Section 7 of the principal Act is amended in subsection (2) by deleting the words “First Schedule” and substituting the words “Fourth Schedule”.

Amendment of section 8 of Act 2019-5

6. Section 8 of the principal Act is amended

(a) by deleting subsection (1) and substituting the following:

“(1) There shall be a department of Government to be known as the Planning and Development Department

(a) headed by a Director of Planning and Development, who shall be a public officer; and

(b) such number of planning officers, building officers, enforcement officers and other staff as may be appointed to assist the Minister and Board in the administration and enforcement of this Act.”;

(b) in subsection (2), by

(i) **deleting the words “The Chief Town Planner, planning officers and staff” appearing at the beginning of the subsection and substituting the words “The Director and staff”;**

(ii) **renumbering paragraphs (e), (f) and (g) as paragraph (f), (g) and (h) respectively;**

(iii) **inserting the following new paragraph immediately after paragraph (d):**

“(e) make recommendations to the Board with respect to the issuance of building permits and occupancy certificates pursuant to Part V;” and

(iv) *deleting paragraph (f) and substituting the following:*

“(f) carry out inspections for the purpose of detecting and initiating enforcement action with respect to breaches of planning and building control;”.

Amendment of section 10 of Act 2019-5

7. *Section 10 of the principal Act is amended by deleting subsection (3) and substituting the following:*

“(3) Subject to the prior approval of the Board, any functions assigned to the Director by or under this Act, may be performed either generally or specifically by any planning officer, building officer or enforcement officer so authorised in writing by the Director.”.

Amendment of section 14 of Act 2019-5

8. *Section 14 of the principal Act is amended in subsection (2) by deleting paragraph (c) and substituting the following:*

“(c) prescribe for any of the matters set out in the *Fifth Schedule*.”.

Amendment of section 30 of Act 2019-5

9. *Section 30 of the principal Act is amended by deleting subsection (2) and substituting the following:*

“(2) Unless the Minister directs otherwise, the Director shall require an environmental impact assessment in respect of an application for a development of any kind mentioned in the *Sixth Schedule*.”.

Amendment of section 34 of Act 2019-5

10. *Section 34 of the principal Act is amended in subsection (1) by deleting paragraph (b) and substituting the following:*

“(b) in the case of an application classified in the *Fourth Schedule* as a complex application, other than an application for which an environmental impact assessment has been submitted, within a period of 10 weeks, from the date of submission of the application;”.

Repeal and replacement of section 44 of Act 2019-5

11. *Section 44 of the principal Act is deleted and the following is substituted:*

“Building permit

44.(1) A person shall not carry out any building operations unless

- (a) a building permit in respect of the building works is in force; and
- (b) the building works are being carried out in accordance with the building permit.

(2) Where planning permission has been granted for the carrying out of building operations, the applicant shall submit to the Board detailed building plans, together with

- (a) the form specified by the Board;

- (b) any documents, designs, calculations and like materials related thereto; and
 - (c) proof of payment of the prescribed building permit fee.
- (3) Detailed building plans submitted pursuant to subsection (1) shall be drawn to the scale specified by the Board and shall include, but not be limited to
 - (a) floor plans;
 - (b) elevations and sections;
 - (c) foundation details;
 - (d) structural details, including roof design details;
 - (e) electrical layout;
 - (f) mechanical, air-conditioning and ventilation layout; and
 - (g) plumbing layout.
- (4) Except for simple building applications, all building plans submitted to the Board shall be
 - (a) prepared and submitted by a competent registered professional;
 - (b) stamped with the name and address of the registered professional; and
 - (c) signed by that registered professional.
- (5) All documents, designs, calculations and like material submitted pursuant to subsection (2) for a building permit shall be stamped with the name and address of the competent registered professional responsible for preparing the material and signed by that registered professional.

(6) The building plans and specifications submitted to the Board shall be accompanied by a design certificate in the form set out in the *Seventh Schedule*.

(7) In this section, “simple building application” means an application to construct

- (a) a dwelling house or duplex dwelling of not more than two storeys, the gross floor area of which does not exceed 232.5 square metres;
- (b) a building of not more than two storeys in height containing more than two dwelling units, the gross floor area of which does not exceed 465 square metres; or
- (c) a commercial building of not more than two storeys in height, the gross floor area of which does not exceed 465 square metres.

(8) In accordance with the provisions of the *Engineers (Registration) Act*, Cap. 368B, a certificate signed by a competent registered engineer is required with respect to the structural, mechanical and electrical aspects of any building

- (a) consisting of or designed for more than two storeys;
- (b) constructed or used for the purposes of carrying on a business; or
- (c) being a place to which the public have or may have access.”.

Insertion of new sections 44A to 44I into Act 2019-5

12. *The principal Act is amended by inserting the following new sections immediately after section 44:*

“Issuance of building permits

44A.(1) On the submission of building plans and all the documents, designs, calculations and like material required in support of a submission for a building permit, the Board shall issue a building permit, except where

- (a) the building plans are not in accordance with the terms and conditions subject to which planning permission was granted for the building operations under Part IV;
- (b) when the building operations constitute permitted development under a Development Order, the building plans are not in accordance with the conditions subject to which such development is permitted by the Order;
- (c) the building plans contravene the Building Code or building regulations or any other written law; or
- (d) any fees due are unpaid.

(2) Where the building plans, specifications and other documents submitted are signed and stamped by a competent registered professional pursuant to section 44(4) and (5), the Board shall issue, no later than 7 calendar days after the date of submission, a building permit showing that it is issued in reliance on the design certificate of the registered professional, without prejudice to its right to cause any such building plans, specifications and other documents to be reviewed thereafter and to revoke the building permit pursuant to section 44F(1) (a).

(3) Where the building plans, specifications and other documents submitted to the Board are not signed and stamped by a registered professional, the Director shall cause the building plans, specifications and other documents submitted to be reviewed, and the Board shall

issue or refuse to issue a building permit within 28 working days after receiving the submission.

(4) Where the Board refuses to issue a building permit, the notice of refusal shall give reasons for the refusal.

(5) The Crown is exempt from any liability in negligence arising from the grant of planning permission for building operations and issuance of a building permit, whether or not the plans submitted in application for planning permission or a building permit were prepared by a competent registered professional or any other person.

Building Inspections

44B.(1) The holder of a building permit shall give to the Director notice in writing of the date on which building works will commence, at least 14 days prior to the commencement of building operations.

(2) During the carrying out of such works, the following building inspections shall be conducted

- (a) setting out;
- (b) footings and slabs before concreting;
- (c) structural frame and roof;
- (d) ring beams, casting and reinforcement;
- (e) plumbing and drains;
- (f) electrical work (in association with the electrical inspector);
- (g) all mechanical installations;
- (h) such other inspections as the Board may reasonably require;
and
- (i) final inspection for an occupancy certificate.

(3) Building works at an inspection stage shall not be covered up prior to being inspected and further building works shall not proceed unless the works completed up to that stage have been inspected and approved.

(4) Subject to subsection (5), all such inspections shall be conducted by an independent consultant engaged by the holder of the building permit to conduct such inspections.

(5) Notwithstanding subsection (4), where a building permit is issued in relation to a simple building application, the required building inspections maybe carried out by a building officer from the Department, at the request of the holder of the building permit, on payment of the prescribed fee for such inspections.

(6) Where inspections are to be carried out by a building officer, the builder may cover up uninspected building works where an inspection is not carried out by a building officer within a period of 4 complete working days after notice in writing has been given to the Director that the uncovered building work will be ready for inspection in 3 working days.

(7) Where the holder of a building permit appoints an independent consultant to conduct the required inspections, notice of such appointment shall be included in the notice of intention to commence works given to the Director pursuant to subsection (1).

(8) Where building inspections are conducted by an independent consultant, the cost of the services of independent consultant engaged by the holder of the building permit shall be borne by the holder of the building permit, and the holder of the building permit shall submit reports on the building inspections to the Board in a format to be determined by the Director.

(9) Where, at any stage in the course of a building inspection, the independent consultant or building officer identifies defects in the

works being inspected, the defects shall be pointed out immediately to the person charged with carrying out the building works and notice in writing of the defects shall be given to holder of the building permit within 24 hours thereafter.

(10) Where, in the opinion of the Director, based on the inspection reports, the building works do not comply with the Building Code or the approved plans and specifications, the Board may by notice in writing direct the person charged with carrying out the building works to take such steps as are necessary to bring the building works into compliance, within the time specified in the notice.

(11) Where the person charged with carrying out the building works refuses or fails to take such steps as are necessary to bring the building works into compliance within the time specified in the notice, the Board may revoke the building permit pursuant to section 44F(1).

(12) In this section “independent consultant” means a registered professional other than the registered professional who certified the plans and specifications submitted to the Board and who is not an employee of the holder of the building permit.

Variations in building works

44C.(1) Where any material alteration or modification to the design of a building occurs in course of carrying out building works, revised plans showing the variations from the original plans, including the addition, omission or substitution of any works, shall be submitted to the Board as soon as may be practicable after the variation has occurred.

(2) The Board may amend the building permit to authorise any variations to the original plans and the retention of the building as built before the date of submission of the revised plans.

(3) Where variations have occurred, no occupancy certificate shall be issued for the building pursuant to section 44E until after the revised plans have been submitted and the building permit has been amended.

(4) Where revised plans are duly submitted to the Board, the Director shall issue the amended building permit within 28 calendar days from the date of submission of the revised plans.

(5) The provisions of this section do not apply to the retention of building works carried out without the grant of planning permission, for which an application to regularise unauthorised development shall be made pursuant to section 31.

Clarification of technical requirements

44D.(1) Where any question arises as to whether technical requirements of the Building Code or any regulations are satisfied, a registered professional shall consult with the Board and the views of the Director shall be considered in all circumstances.

(2) Where there is a dispute, between the Director and a registered professional, with respect to the technical requirements of the Building Code or any regulations, or as to whether there has been substantial compliance with such requirements, any party to dispute may apply to the Tribunal for a determination of the matter.

(3) The Tribunal may determine any dispute brought under subsection (2) on the basis of written submissions alone, but shall provide an opportunity for the parties to make oral representations on a request in writing by either party.

(4) The Tribunal may appoint an independent expert to advise it on analysing the submissions made by the parties to any dispute, orally or in writing, and in determining the question.

Occupancy Certificates

44E.(1) No person shall

(a) occupy

(i) a new or renovated building; or

(ii) a new extension to a building; or

(b) permit any such new, renovated or extended building, to be occupied

until an occupancy certificate has been issued with respect to the building.

(2) The Board shall within 7 days issue an occupancy certificate upon the completion of any building works in substantial compliance with the terms of a building permit, and upon payment of the prescribed fee.

(3) An application for an occupancy certificate shall be made to the Board in such form as is specified by the Board, accompanied by proof of payment of the prescribed fee, and shall be submitted to the Director by the owner of the building or by an agent for the owner, after the completion of the building works.

(4) The Board shall not grant an occupancy certificate unless the application is accompanied by a final inspection certificate duly signed by an independent consultant or a building officer stating that the building work to which it relates has been carried out in accordance with the building permit, this Act and the building regulations, and is fit for occupation.

(5) An owner of a building or an agent for the owner may apply for a temporary certificate of occupancy for part of a building which may be safely occupied prior to completion of the rest of the building.

(6) A temporary certificate of occupancy shall be granted subject to such terms and conditions as the Director sees fit and remain valid for such period from the date of issue as is specified therein.

(7) In subsection (2), “substantial compliance” means a level of compliance in which any deficiencies in the building works pose no threat to the safety, health and welfare of persons within or in the

vicinity of the building greater than the potential for causing minimal harm.

Enforcement of building control

44F.(1) The Board may by notice in writing revoke a building permit where

- (a) after a building permit is issued in reliance of the design certificate of a registered professional, the building plans are found to contravene the Building Code or building regulations;
 - (b) the permit was issued based upon the submission of materially false or misleading information;
 - (c) the building works authorized by the building permit have not, in the opinion of the Director, substantially commenced before the lapse of the planning permission; or
 - (d) the building works are being carried out in breach of the building permit.
- (2) The Board shall not revoke a building permit under subsection (1) on the grounds of any such default unless the Board has
- (a) by notice served on the holder of the permit, given not less than 14 days notice of its intention to revoke the permit on the grounds specified therein;
 - (b) in the notice referred to in paragraph (a) specified a reasonable date before which the holder of the permit may submit any written representations to the Board; and
 - (c) taken into account
 - (i) any action taken by the holder of the permit to remedy such default, if it can be remedied, and to prevent the reoccurrence of similar defaults; and

(ii) any representations submitted to the Board pursuant to paragraph (b).

(3) Where any building or other structure is commenced or completed without a building permit, or after a building permit has been revoked, the Board may serve the owner of the premises or the builder, or both of them, with a notice in writing specifying the contravention and requiring the person served, on or before a day specified in the notice, to show cause why such building or structure should not be removed, altered or demolished.

(4) Where an owner or builder upon whom a notice has been served pursuant to subsection (3) fails to show sufficient cause why the building or other structure should not be removed, altered or demolished, the Board may cause such building or structure to be removed, altered or pulled down.

(5) Notice in writing of the Board's decision with respect to the removal, alteration or demolition of the building or structure, shall be given to the owner of the premises at least 28 days before any such action is undertaken.

(6) All expenses incurred by the Board in removing, altering or pulling down a building or structure under this section shall be a civil debt due to the Crown, recoverable in a court of competent jurisdiction, and a charge upon the premises.

(7) A person who is aggrieved by a notice served upon them under subsection (1) or subsection (5) may appeal to the Tribunal within 14 days of the date of service of a notice.

(8) Nothing in this section shall be construed to prevent any enforcement proceedings for a breach of planning control being taken against any person under Part VIII of this Act, provided that no one shall be punished twice for the same offence.

Engineering Operations

- 44G.** The provisions of this Part with respect to
- (a) the submission of detailed plans and supporting documents;
 - (b) the issuance of building permits before works are commenced;
 - (c) the inspection works at appropriate stages of construction;
 - (d) the certification of completion of works;
 - (e) the submission of revised plans showing any variations; and
 - (f) the enforcement of building control,
- apply *mutatis mutandis* to the carrying out of engineering operations.

Building Regulations

- 44H.(1)** The Minister may make regulations providing for a Building Code
- (a) consisting of engineering, design and public health standards applicable to the construction of buildings as appear to be desirable for the structural and fire safety of buildings; and
 - (b) for the safety, health and general welfare of persons within or in the vicinity of buildings.
- (2) Regulations made under this section may adopt, by reference with necessary changes, any code, standard, or practice set by an appropriate institution, association or other body.
- (3) Except as provided for in subsection (4), the building regulations shall govern any new construction of buildings and new additions to existing buildings, but shall not be applied to existing buildings or parts of buildings at the time of renovations or alterations to such buildings, except where any such renovation or alteration results in an existing

building being further out of compliance with the building standards than was the case before the renovation or alteration was undertaken.

(4) The Minister may make regulations

- (a) providing for retrofitting standards designed to bring any prescribed class or classes of existing buildings up to acceptable levels of sanitation and safety from fire or natural hazards;
- (b) requiring renovations or alterations to be made to the buildings referred to in paragraph (a) in order to achieve compliance to be undertaken; and
- (c) prescribing periods within which buildings of any class are required to be retrofitted to conform with the standards.

(5) Regulations made under this section may provide for different building standards governing

- (a) the construction or retrofitting of buildings to be used as hurricane shelters; or
- (b) the carrying out of building works in, on, over or under cultural heritage buildings, monuments and sites.

(6) Regulations made under this section may provide for the certification, of building products, construction methods or design components or systems by the Barbados National Standards Institution or any accredited independent person or institution.

(7) For the purpose of this section “Barbados National Standards Institution” means the institution referred to in the *Standards Act*, Cap. 326A.

Registered professionals

44I.(1) A professional governing body shall

- (a) establish, in relation to the profession that it regulates, minimum levels of professional competence required for the preparation of such categories of building plans as may be appropriate, so as to assure that detailed building plans submitted to the Board meet the standards prescribed in the building regulations;
- (b) issue a certificate of competence stating whether the person to whom it is issued is competent to certify that building plans submitted with respect to any development satisfy the standards prescribed in the building regulations.

(2) The Board shall accept a design certificate as conclusive of the facts to which it relates, provided that the registered professional certifying the design certificate is the holder of a certificate of competence issued by the professional governing body pursuant to subsection (1)(b).

(3) The Board shall maintain a comprehensive register of all certified registered professionals, showing the nature and category of applications for which each person was granted a certificate of competence as well as the limitations or restrictions to which such certificate is subject, including the period for which the certificate is valid.

(4) The Board shall, after consulting with any relevant professional governing body, by Order prescribe the minimum amount of professional liability insurance coverage required to be provided in respect of professional certification of building plans by registered professionals for all the categories of applications, except simple building applications.

(5) A registered professional shall file and maintain with the Board proof of financial responsibility as evidenced by professional liability insurance coverage in an amount sufficient to satisfy their obligations under this Act.

(6) Where the Board finds that any building plans or specifications are not in accordance with the requirements of the building regulations and the Building Code as certified, or have not been prepared by the registered professional who signed the design certificate, the Board shall

- (a) report the registered professional who signed the design certificate to the relevant professional governing body for professional misconduct;
- (b) suspend the acceptance of building plans bearing a design certificate signed by the registered professional referred to in paragraph (a) until notified by the relevant professional governing body of its decision with respect to the misconduct of the registered professional; and
- (c) where the registered professional is found guilty of professional misconduct, take such action as is necessary on its part to implement any sanctions imposed on the registered professional by the relevant governing body.”.

Amendment of section 87 of Act 2019-5

13. Section 87 of the principal Act is amended in subsection (2) by

- (a) deleting the word “and” appearing at the end of paragraph (c);**
- (b) renumbering paragraph (d) as paragraph (e); and**
- (c) inserting immediately after paragraph (c) the following paragraph as paragraph (d):**

“(d) any decision with respect to the issue or to the withholding of a building permit or an occupancy certificate; and”.

Amendment of section 93 of Act 2019-5

14. Section 93 of the principal Act is amended in subsection (2) by deleting the word “14” and substituting the word “28”.

Amendment of section 94 of Act 2019-5

15. Section 94 of the principal Act is amended

- (a) in the shoulder note by deleting the words “High Court” and substituting the words “Court of Appeal”;**
- (b) in subsection (2), by deleting the words “Judge in chambers” and substituting the words “Court of Appeal”; and**
- (c) in subsection (3), by deleting the words “High Court” and substituting the words “Registration Office”.**

Amendment of section 95 of Act 2019-5

16. Section 95 of the principal Act is amended in subsection (1) by

- (a) renumbering paragraphs (d) and (e) as paragraphs (e) and (f); and**
- (b) inserting the following paragraph immediately after paragraph (c) as paragraph (d):**

“(d) to carry out any building inspection in accordance with the provisions of section 44B;”.

Amendment of section 98 of Act 2019-5

17. Section 98 of the principal Act is amended in subsection (1) by

- (a) renumbering paragraphs (e) and (h) as (g) to (j); and**

(b) inserting the following paragraphs immediately after paragraph (d):

- “(e) every building permit issued under section 44A;
- (f) every occupancy certificate issued under section 44E;”.

Amendment of section 104 of Act 2019-5

18. Section 104 of the principal Act is amended

(a) in subsection (1) by

(i) deleting paragraph (c) and substituting the following:

“(c) the qualifications required of persons signing forms, plans and drawings on behalf of any applicant for planning permission or a building permit;”;

(ii) renumbering paragraphs (d) to (h) as paragraphs (e) to (i); and

(iii) inserting immediately after paragraph (c) the following as paragraph (d):

“(d) the procedures with respect to entering into agreements for planning obligations under section 36;” and

(b) by inserting immediately after subsection (1) the following new subsection:

“(1A) Regulations made under this Act are subject to negative resolution.”.

Amendment to section 105 of Act 2019-5

19. The principal Act is amended by deleting section 105 and substituting the following:

“105.(1) The Minister may by order amend the *Schedules* to this Act except the *Eighth Schedule*.

(2) The Order referred to in subsection (1) is subject to negative resolution.

(3) The enactments specified in the first column of the *Eighth Schedule* are amended in the respects set out in the second column thereto.”.

Amendment to section 106 of Act 2019-5

20. *Section 106 of the principal Act is amended by inserting the following new subsection immediately after subsection (2)*

“(3) All references in other enactments to the Chief Town Planner shall be construed *mutatis mutandis* as references to the Board or the Director as the context allows.”.

Amendment of section 107 of Act 2019-5

21. *Section 107 of the principal Act is amended by*

- (a) *renumbering subsection (3) as subsection (5); and*
- (b) *inserting the following new subsections immediately after subsection (2):*

“(3) The *Health Services (Building) Regulations, 1969* (S.I. 1969 No. 233), are deemed to be made under this Act and continue in force until repealed and replaced by building regulations made under section 44H.

(4) The *Barbados National Building Code* (2013 Edition) issued as Standard BNS SPI: Parts 1-18:2013, and declared as a voluntary

standard by the Barbados National Standards Institution on 5th September 2013, pursuant to the *Standards Act*, Cap. 326A, is deemed to be adopted under this Act and continued in force until repealed and replaced by a Building Code made or adopted under section 44H.”.

Amendment of section 108 of Act 2019-5

22. *Section 108 of the principal Act is amended at subsection (1) by deleting the words “is to” and substituting the words “may, at the option of the applicant,”.*

Insertion of new Schedules into the Act 2019-5

23. *The principal Act is amended*

- (a) by renumbering the First, Second, Third and Fourth Schedules as the Fourth, Fifth, Sixth and Eighth Schedules; and*
- (b) by inserting the First, Second, Third and Seventh Schedules as set out in the Schedule to this Act.*

SCHEDULE

(Section 24)

“FIRST SCHEDULE

(Section 2)

LEGISLATION GOVERNING REGISTERED PROFESSIONALS

1. The *Architects Registration Act*, Cap. 366.
2. The *Engineers (Registration) Act*, Cap. 368B.
3. The *Land Surveyors Act*, Cap. 370.

SECOND SCHEDULE

(Section 6(10))

DESIGN AND ENGINEERING COMMITTEE

1. The Design and Engineering Committee shall include, but not be limited to, persons with expertise and experience in

- (a)* Architectural design;
- (b)* Urban design;
- (c)* Landscape design;
- (d)* Physical planning;
- (e)* Heritage conservation;
- (f)* Accessibility and disability issues;
- (g)* Structural engineering;
- (h)* Civil engineering;
- (i)* Transportation engineering;
- (j)* Coastal engineering;
- (k)* Mechanical and electrical engineering;
- (l)* Fire safety;
- (m)* Disaster management; and
- (n)* Public health.

2. The function of the Committee is to advise the Board and the Minister with respect to

- (a)* the design of major or sensitive development;
- (b)* design standards;

- (c) access standards;
- (d) construction and structural standards;
- (e) the consideration of building permit applications;
- (f) the adoption and regular review of the Building Code;
- (g) the registration of Certified Registered Professionals for the purposes of this Act.

3. A member of the Committee shall serve for a term of 3 years but is eligible for re-appointment.

4. The Board shall designate one of the members of the Committee to act as Chairperson.

5. The Director shall assign an officer from the Planning and Development Department to serve as Secretary to the Committee.

6. The Committee may appoint from amongst its members such working groups as are necessary or expedient to carry out specific tasks.

7. Minutes in proper form of each meeting of the Committee and of any working group shall be kept by the Secretary and confirmed by the Committee at its next meeting and the Chairman shall sign the minutes once confirmed.

8. The approved Minutes of each meeting of the Committee and of any working group shall be submitted to the Board at its next meeting.

9. The approved Minutes of the Committee and of any working group are public documents and shall be made available for perusal by

any member of the public in documentary form at the office of the Department and in electronic form on the internet.

10. The provisions of subsections (9) and (12) of section 6 and of section 103 of the Act apply *mutatis mutandis* to the Committee and any working group and members thereof as they apply to the Board.

11. The Committee shall regulate its own proceedings.

THIRD SCHEDULE

(Section 6(10))

ENVIRONMENTAL IMPACT ASSESSMENT COMMITTEE

1. The Environmental Impact Assessment Committee shall include persons with expertise in

- (a) Ecology;
- (b) Geology, hydrology and soil conservation;
- (c) Environmental, coastal and civil engineering;
- (d) Marine science;
- (e) Disaster risk mitigation and management;
- (f) Public health;
- (g) Economics;
- (h) Sociology; and
- (i) Physical planning.

2. The function of the Committee is to advise the Board and the Minister, with respect to EIA studies and for this purpose to

- (a) screen applications for planning permission to determine whether an EIA is required in any case;
- (b) where an EIA is required, scope the development proposal to specify the TOR for the EIA;
- (c) review the EIS submitted by the applicant and public comments on the EIS; and
- (d) make recommendations to the Board with respect to the environmental impacts of proposed development projects,

including the imposition of conditions on the grant of planning permission for the purposes of avoiding, mitigating or offsetting adverse environmental impacts.

3. A member of the Committee serves for a term of 3 years but is eligible for re-appointment as often as the Board sees fit.

4. The Board shall designate one of the members of the Committee to act as Chairperson.

5. The Director assign an officer from the Planning and Development Department to serve as Secretary to the Committee.

6. The Committee may appoint from amongst its member such working groups as are necessary or expedient to carry out specific tasks.

7. Minutes in proper form of each meeting of the Committee and of any working group shall be kept by the Secretary and confirmed by the Committee at its next meeting; and the Chairman shall sign the minutes once confirmed.

8. The provisions of subsections (9) and (12) of section 6 and of section 103 of the Act apply *mutatis mutandis* to the Committee and members thereof as they apply to the Board.

9. Subject to the foregoing provisions of this *Schedule*, the Committee has the power to regulate its own proceedings.

SEVENTH SCHEDULE

(Section 44(6))



Planning and Development Act
(Act 2019-5)

FORM

DESIGN CERTIFICATE

I _____ hereby declare that the plans and
Name of Registered Professional
specifications for the building works have been properly prepared by me in accordance with the
requirements of the *Building Regulations, 2020* (S.I. 2020 No.) and the Building Code.

Signature of Registered Professional

Day/Month/Year



S.I. 2021 No. 88

**PLANNING AND DEVELOPMENT (ENVIRONMENTAL IMPACT
ASSESSMENT) REGULATIONS, 2021**

Arrangement of Regulations

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Planning and Development Act, 2019

Act 2019-5

**PLANNING AND DEVELOPMENT (ENVIRONMENTAL IMPACT
ASSESSMENT) REGULATIONS, 2021**

The Minister, in exercise of the powers conferred on him by section 30(4) and section 104(1A) of the *Planning and Development Act, 2019*, makes the following Regulations:

Citation

1. These Regulations may be cited as the *Planning Development (Environmental Impact Assessment) Regulations, 2021*.

Definitions

2. In these Regulations,
“application” means an application for planning permission made under Part IV of the Act;
“Committee” means the Environmental Impact Assessment Committee established by regulation 3;
“scoping” means the process of identifying the scope of work to be carried out for an environmental impact assessment;
“screening” means a preliminary assessment of the proposed development to determine whether its environmental impacts are likely to be significant;
“terms of reference” means a document prescribing the nature and extent of the environmental information to be provided and the analysis required in carrying out an environmental impact assessment.

Environmental Impact Assessment Committee

3.(1) The Board shall appoint an Environmental Impact Assessment Committee, pursuant to section 6(10) of the Act, to carry out the functions conferred upon it by these Regulations.

(2) The Committee shall comprise persons who possess qualifications and experience in the following areas:

- (a) ecology;
- (b) geology, hydrology and soil conservation;
- (c) environmental, coastal and civil engineering;
- (d) marine science;
- (e) disaster risk mitigation and management;
- (f) public health;
- (g) economics;
- (h) sociology; and
- (i) physical planning.

(3) The function of the Committee is to advise the Board and the Minister, with respect to environmental impact assessment studies and for this purpose to

- (a) screen applications for planning permission to determine whether an environmental impact assessment is required in any case;
- (b) scope the development proposal to specify the terms of reference for the environmental impact assessment where an environmental impact assessment is required;
- (c) review the environmental impact statement submitted by the applicant and public comments on the environmental impact statement; and

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- (d) make recommendations to the Board with respect to the environmental impacts of proposed development projects, including the imposition of conditions on the grant of planning permission for the purposes of avoiding, mitigating and offsetting adverse environmental impacts.
- (4) A member of the Committee shall serve for a term not exceeding 3 years and is eligible for reappointment. as often as the Board sees fit.
- (5) The Board shall designate one of the members of the Committee to act as Chairperson.
- (6) The Director shall assign an officer from the Planning and Development Department to serve as Secretary to the Committee.
- (7) The Committee may appoint from amongst its members such working groups as are necessary or expedient to carry out specific tasks.
- (8) Minutes in proper form of each meeting of the Committee and of any working group shall be kept by the Secretary and confirmed by the Committee at its next meeting; and the Chairman shall sign the minutes once confirmed.
- (9) The provisions of subsections (9) and (12) of section 6 and of section 103 of the Act apply *mutatis mutandis* to the Committee and members thereof as they apply to the Board.
- (10) The Committee has the power to regulate its own proceedings subject to the provisions of this regulation.

Screening of applications

- 4.(1) Subject to the approval of the Board, the Committee shall establish guidelines for screening applications, including applications for approval in principle, keep those guidelines under continuous review and revise them from time to time as it considers necessary or expedient.
- (2) The screening guidelines established under paragraph (1) may include consideration of the following:
- (a) the size and scale of the proposed development;

- (b) the location of the proposed development in relation to sites or areas that are of special importance or vulnerability; and
 - (c) the activities involved in the proposed development that may particularly activities with complex and potentially adverse impacts, including but not limited to serious impacts on human beings and valued ecosystem components, or which would cause additional loading of the environment to unsustainable levels.
 - (i) seriously impact on human beings and valued ecosystem components; or
 - (ii) cause additional loading of the environment to unsustainable levels.
- (3) The Director shall make copies of the approved screening guidelines available to members of the public on the internet or in hard copy at the cost of making copies.
- (4) Within 14 days of the submission of an application, the Committee shall carry out, or cause to be carried out, a screening of the application and
 - (a) in the case of an application for approval in principle, where the screening shows that the adverse impacts of the proposed development may be significant, advise the Board that the applicant is required to carry out an initial environmental evaluation in relation to that application;
 - (b) in any case where the application is for proposed development of a class listed in the *Sixth Schedule* to the Act, advise the Minister whether the application may be exempted from the requirement that an environmental impact assessment shall be carried out, pursuant to section 30(2) of the Act, in accordance with regulation 5; and
 - (c) in the case of any other application, where the screening shows that the adverse impacts of the proposed development are likely to be significant, advise the Director that an initial environmental evaluation or an environmental impact assessment shall be carried out in support

of the application before it is determined, pursuant to section 30(1) of the Act.

(5) The Director shall give the applicant notice of the decision to require, or to dispense with the requirement, that an environmental impact assessment be carried out with respect to the proposed development, as the case may be, no later than 28 days after the date of the application, pursuant to section 27 of the Act.

Exemption from environmental impact assessment requirements

5.(1) The Committee shall advise the Minister that an environmental impact assessment is not required with respect to an application for a development of any kind mentioned in the *Sixth Schedule* to the Act where

- (a) the application had been preceded by an application for approval in principle;
- (b) an initial environmental evaluation was carried out with respect to the conceptual plans for the development before approval in principle was granted; and
- (c) the grant of approval in principle was not made subject to a condition that an environmental impact assessment be carried out and an environmental impact statement submitted in relation to the application for planning permission for the development.

(2) Every direction given by the Minister pursuant to section 30(2) of the Act, on the advice of the Committee, and published in accordance with section 2(3) of the Act, shall contain a statement of reasons for the decision.

Publicity for applications

6.(1) Where an applicant is notified that an environmental impact assessment is required, the applicant shall publicize the application, in accordance to subsection 29(2)(a) of the Act, giving notice of the application to the public in general, and particularly persons whose interests are likely to be affected, directly or indirectly, by the proposed development.

(2) Without prejudice to the generality of paragraph (1), within 14 days of service of the notice, the applicant shall

- (a) cause a notice containing particulars of the application to be published twice in at least one daily newspaper in general circulation in Barbados or to be published electronically on the internet;
- (b) give copies of such notice to the owners or occupiers of every parcel of land adjacent to the premises on which the proposed development is to take place; and
- (c) affix a conspicuous notice containing the same particulars to some object on the land where the proposed development is to take place.

(3) Every such notice shall

- (a) include the name of the applicant, the reference number and date of the application and a brief description of the proposed development; and
- (b) specify that an environmental impact assessment is required to be carried out with respect to the proposed development and that members of the public shall be afforded the opportunity to scrutinize the environmental impact statement and submit objections or representations with respect to the application in due course.

Initial Environmental Evaluation

7.(1) An applicant may be required to submit an initial environment evaluation

- (a) in support of an application for approval in principle pursuant to section 25(3) of the Act; or
- (b) in support of an application for planning permission *in lieu* of an environmental impact assessment, where so determined by the Committee in accordance with the screening guidelines.

(2) In every case where the Director requires an initial environment evaluation in respect of an application for approval in principle, the applicant may submit

in satisfaction of that requirement a report on the initial environment evaluation

- (a) predicting the main impacts of the proposed development and evaluating the importance of those impacts;
 - (b) indicating the key mitigating actions which would be required if the development is permitted; and
 - (c) identifying any significant gaps in knowledge and uncertainties about environmental impacts which should be addressed by a more rigorous environmental impact assessment before detailed plans are prepared and submitted for planning permission.
- (3) An initial environment evaluation submitted pursuant to subsection (2), shall assess the predicted environmental impacts of the proposed development in sufficient detail to enable the Board to identify any conditions subject to which approval in principle may be granted and any matters concerning which the Board shall reserve planning permission until detailed plans have been submitted.
- (4) Where the Committee is of the opinion that the available information is not adequate for the purposes of conducting an initial environment evaluation, the Director may require any supplementary preliminary studies and information that are reasonably necessary for those purposes to be undertaken or collected by the applicant.

Scoping of environmental impact assessment

8.(1) In every case where the Board requires an environmental impact assessment with respect to an application, within 7 days of the date of notification under regulation 3(5), the Committee shall consider the scope of works necessary to assess the potential impacts of the proposed development on the environment, prepare a draft terms of reference for the environmental impact assessment required in respect of the proposed development and the Director shall issue the draft terms of reference to the applicant.

(2) In considering the scope of works to be undertaken for a development listed in the *Sixth Schedule* to the Act, the Committee shall take into account the existing class model for projects of the same class, adopted pursuant to regulation 9, if any.

(3) If the applicant wishes to have the draft terms of reference amended, the applicant shall conduct consultations with any relevant governmental agencies, non-governmental organisations and members of the public with respect to the required scope of work for the environmental impact assessment and, within 14 days of the date of issue of the draft terms of reference under sub-regulation (1), submit to the Director a report on the scoping exercise, inclusive of proposals for the revision of the draft terms of reference, if any.

(4) The Committee shall consider any scoping report submitted by the applicant pursuant to paragraph (2), if any, and issue final terms of reference for the environmental impact assessment to the applicant within 7 days after the date of submission of the scoping report or, if the applicant fails to submit a scoping report, after the expiry of the period allowed by paragraph (3) for the submission of a scoping report, whichever is earlier in time.

Class Model environmental impact assessment

9.(1) Where the Committee determines that an environmental impact assessment can be used as a basis for carrying out environmental impact assessments for other projects of the same class specified in the *Sixth Schedule* to the Act, it may declare the environmental impact statement to be a class model report.

(2) Any declaration made pursuant to paragraph (1) shall be published in the *Official Gazette* and the environmental impact statement to which it relates shall be made freely available to the public in electronic form on the Department's internet website.

(3) Where a project is within a class in respect of which a class model report has been declared, the Committee may permit the use of that environmental impact statement and the environmental impact assessment on which it is based

to whatever extent it considers appropriate for the purposes of complying with the requirements of these Regulations.

(4) Where the Committee permits the use of a class model report, it shall ensure that such adjustments are made to the terms of reference of the environmental impact assessment for the proposed development as are necessary to update the baseline environmental information and take into account the site specific circumstances of the development to which the application for planning permission relates.

(5) Where the Committee determines that an environmental impact statement can no longer be used as a class model for carrying out environmental impact assessments for projects of the same class, it may declare the environmental impact statement not to be a class model.

(6) Any declaration made pursuant to paragraph (5) must be published in the *Official Gazette* and the environmental impact statement to which it relates may be removed from the internet.

Qualified persons to conduct environmental impact assessment

10.(1) The applicant shall ensure that the environmental impact assessment is carried out by independent and suitably qualified persons with recognised expertise and experience in the specific areas with respect to which information and analysis is required by the terms of reference.

(2) The environmental impact statement shall include information outlining the relevant qualifications and experience of the experts who carried out the environmental impact assessment.

(3) For the avoidance of doubt, it is declared that the Board, on the advice of the Committee, may reject an environmental impact statement on the grounds that it is not satisfied that the environmental impact assessment to which it relates has been carried out in accordance with the provisions of this regulation.

Public participation in environmental impact assessment

11.(1) The applicant may be required to provide, during the course of the environmental impact assessment, an opportunity for the interested members of the public to meet with the person carrying out the environmental impact assessment on behalf of the applicant in order to

- (a) provide information concerning the proposed development to the persons whose environment may be affected by the development; and
- (b) record the concerns of the community regarding the potential environmental impact of the proposed development and to include the record of such concerns in the environmental impact statement.

(2) The procedure for public contact and involvement with the applicant and environmental impact assessment prepared during the course of the environmental impact assessment shall be prescribed by the Committee in the terms of reference.

Minimum contents of environmental impact statement

12.(1) An environmental impact statement shall include at a minimum

- (a) a description of the proposed development;
- (b) a description of the potentially affected environment, including specific information necessary for identifying and assessing the environmental impacts of the proposed development;
- (c) a description of practical alternatives, as appropriate;
- (d) an assessment of the likely or potential environmental impacts of the proposed development and alternatives, including direct, indirect, cumulative, short-term and long-term impacts;
- (e) an identification and description of measures available to mitigate or offset adverse environmental impacts of the proposed development and alternatives, and an assessment of those measures;

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- (f) an indication of gaps in knowledge and uncertainties which may be encountered in compiling the required information;
 - (g) an indication of whether the environment of any area beyond the territorial jurisdiction of Barbados is likely to be affected by the proposed development or alternatives; and
 - (h) a brief non-technical summary of the information provided under subparagraphs (a) to (g).
- (2) The environmental impacts in an environmental impacts statement should be assessed in a degree of detail commensurate with their likely environmental significance.

Submission of environmental impact statement

- 13.(1) When the environmental impact assessment has been completed, the applicant shall submit the environmental impact statement to the Director, accompanied by proof of payment of the applicable fee payable at the review stage of the environmental impact assessment process.
- (2) The environmental impact statement shall be submitted within 3 years of the date of the notice given in accordance with regulation 4(5), or such longer period as may be agreed upon between the applicant and the Director, failing which the application to which the environmental impact assessment relates may be cancelled pursuant to section 27(4) of the Act.

Review of environmental impact statement

- 14.(1) Within 28 days after submission of an environmental impact statement, the Committee shall review it to determine whether the environmental impact assessment substantially complies with the terms of reference and is of a satisfactory standard.
- (2) Where the Committee considers this to be necessary, because expert advice is required with respect to any aspect of an environmental impact assessment, the

Board may engage an independent consultant to assist the Committee in reviewing the environmental impact statement.

(3) Other than in a case to which regulation 15 applies, the Director on the advice of the Committee shall notify the applicant that the environmental impact statement is accepted, subject to its submission for public scrutiny in accordance with regulation 16.

Procedure where environmental impact statement is deficient

15.(1) Where the Committee considers that the environmental impact statement is deficient in any respect, the Director may require the applicant to conduct further work and amend the environmental impact statement accordingly.

(2) Where the Committee considers that an environmental impact statement is deficient in terms of paragraph (1) and advises the Director to refer it back for further work, the Director shall indicate in writing to the applicant the nature of the further work that is required to satisfy the terms of reference.

(3) Where the Board refers an environmental impact statement back for further work, consideration of the application to which the environmental impact assessment relates shall be deferred until after the amended environmental impact statement is resubmitted by the applicant and the environmental impact statement has been submitted for public scrutiny in accordance with regulation 16.

(4) Where the Committee refers an environmental impact statement back to the applicant for further work and the applicant fails to carry out the further work which is required to the satisfaction of the Committee, the Committee may reject the environmental impact statement and the Director may cancel the application pursuant to section 27(4) of the Act.

Public scrutiny of environmental impact statement

16.(1) When the Committee accepts an environmental impact statement, the Director shall, in any manner which the Board considers appropriate to facilitate public access to the report, publish a notice setting out the following information:

- (a) the date on which copies of the environmental impact statement will be available for public scrutiny;
- (b) the places at which copies of the environmental impact statement may be scrutinised; and
- (c) the deadline and address for the submission of public comments on the findings and recommendations of the environmental impact assessment.

(2) Prior to the deadline set out in the notice published pursuant to paragraph (1), any person may file written comments with the Director relating to the findings and recommendations and any other aspect of the environmental impact assessment.

(3) The Director shall receive written comments for not less than 21 days and, if the Committee determines that there is sufficient public interest in the matter, the Director shall cause a public consultation to be held to receive verbal comments on the matter, not later than 7 days after the end of the period allowed for the submission of written comments.

(4) In determining whether there is sufficient public interest to cause a public hearing to be held on the application pursuant to paragraph (3), the Committee may take into account

- (a) the number of written comments submitted within the period allowed for the submission of public comments; and
- (b) the amount of public interest in the matter as evidenced by coverage of the issue in the mass communications media.

(5) Where any deficiencies in the environmental impact assessment are identified as a result of the public scrutiny procedure, the Director may require the applicant to conduct further work and amend the environmental impact statement accordingly, provided always that such work is within the scope of the terms of reference.

Decision following environmental impact assessment

17.(1) After taking into consideration the environmental impact statement and any public comments filed pursuant of regulation 16, the Committee, where taking into account the implementation of any mitigation measures that it considers appropriate,

- (a) concludes that the development is not likely to cause significant adverse environmental impacts, shall recommend that planning permission be granted subject to such conditions as are required to ensure that any adverse impacts of the development on the environment are reduced and mitigated;
- (b) concludes that the development is likely to cause significant adverse environmental impacts which cannot be offset to its satisfaction, shall recommend that planning permission for the development be refused; or
- (c) is uncertain whether the development is likely to cause significant environmental impacts or not, may advise that planning permission be refused, based on the precautionary principle.

(2) For the avoidance of doubt, it is declared that where the Board takes into account the Committee's conclusions and recommendations with respect to the environmental impact statement in determining an application for planning permission, the Board is deemed to be in compliance with section 32(8)(e) of the Act.

(3) Where an application for which an environmental impact assessment is required is referred to the Minister for determination pursuant to section 33 of the Act, the provisions of paragraph (1) and (2) apply, with any necessary

modifications, to the determination of the application by the Minister as they apply to the determination of an application by the Board.

(4) Where the Board or the Minister grants planning permission following an environmental impact assessment and such permission is granted subject to conditions intended to reduce, mitigate or offset the adverse impacts of the development on the environment, the Director shall make provision for supervising compliance with those conditions and for monitoring the impacts of the development on the environment after its completion, notwithstanding the provisions of any other written law.

Made by the Minister this 7th day of December, 2021.

MIA AMOR MOTTLEY

Minister responsible for Planning and Development