

Statutory Instrument No. 98 of 1980

TOWN AND COUNTRY PLANNING ACT, 1977
(11 of 1977)

TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT) ORDER, 1980
(Published on 11th July, 1980)

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FIRST SCHEDULE

SECOND SCHEDULE

IN EXERCISE of the powers conferred on the Minister of Local Government and Lands by sections 10 and 13 of the Town and Country Planning Act, 1977, the following Order is hereby made –

1. This Order may be cited as the **Town and Country Planning (General Development) Order, 1980**, and shall apply to every planning area from the appointed day in respect of that area.

Inter-
pretation

2. In this Order, unless the context otherwise requires, —
- “aerodrome” means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departing of aircraft;
- “the development control code” means the code making provision for matters mentioned in the Second Schedule to the Act incorporated in the relevant development plan;
- “industrial process” means any process carried out in the course of trade or business for or incidental to any of the following purposes —
- (a) the making of any article or part thereof;
 - (b) the altering, repairing, ornamenting, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or demolition of any article; or
 - (c) the getting, dressing or treatment of minerals;
- and for the purpose of this definition “article” means an article of any description, including a ship or other vessel;
- “industrial undertakers” means undertakers by whom an industrial process is carried on;
- “large scale development” means a development which involves —
- (a) more than 20 dwelling units;
 - (b) a commercial enterprise of more than 500 m² of floor area;
 - (c) an industrial development of more than 1 000 m² of floor area; or
 - (d) a single use of land greater than 10 ha;
- “local authority” means a town council, township authority, district council or land board;
- “painting” includes any application of colour;
- “the planning area” means any planning area to which this Order applies by virtue of paragraph 1;
- “planning permission” means the permission required under Part IV of the Act for any development of land carried out in a planning area;
- “private way” means a road or footpath which is not maintained at the public expense;
- “the proposed development” means, in respect of any application for planning permission, the development for which permission is thereby sought;
- “the responsible authority” means the authority to which the functions of Board to grant or refuse planning permission in respect of the planning area or the part in question of the planning area have been transferred by the Minister under section 22 (1) of the Act, whatever the conditions, limitations or reservations subject to which that transfer may have been effected.

Planning
permission
granted
directly by
this paragraph
for certain
classes of
development

3. Subject to paragraph 4, permission is hereby granted for development of any class specified in the first column of the First Schedule:
- Provided that —
- (i) in the case of every class of development so specified, the permission granted by this paragraph is granted subject to the conditions and limitations (if any) specified in the corresponding entry or entries in the second column of the First Schedule; and
 - (ii) the permission granted by this paragraph shall not extend to any development which would be contrary to any condition

subject to which planning permission has been granted otherwise than by this paragraph.

4. Where the Minister is satisfied that it is expedient that development of any class specified in the First Schedule or development of any kind within such a class ought not to be carried out in the planning area or in any part thereof without the permission of the Board or of the responsible authority, he may, by order published in the Gazette, provide that permission granted by paragraph 3 shall not extend to development of that class or to development of that kind in the planning area or in that part of the planning area, as the case may be:

Power of Minister to restrict planning permission granted directly by paragraph 3

Provided that the Minister shall not make such an order in respect of development of any class specified in Group VII of the First Schedule or in respect of development of any kind within such a class unless he has first consulted the Minister for the time being responsible for mines on the terms thereof.

5. Permission is hereby granted for any development failure to carry out which immediately is likely to result in loss of human life, serious physical harm to any person or serious damage to property.

Planning permission granted directly by this paragraph where imminent danger to human life or to person or property exists

6. (1) Every application for planning permission shall be lodged with the Board unless there is a responsible authority for the planning area or for the part of the planning area in which the proposed development is to be carried out in which case the application shall be lodged with the responsible authority.

Applications for planning permission

(2) Every application for planning permission shall –

(a) be made in such form as shall be made available for that purpose at the principal office of the Board or of the responsible authority, as the case may be; and

(b) be accompanied by a plan sufficient to identify the land to which the application relates and by such plans and drawings as may be necessary properly and clearly to describe the proposed development together with such number of copies of the application form and of the plans and drawings as the Board or the responsible authority may from time to time require.

(3) Where an application for planning permission is made on the basis that the proposed development is not in conformity with the relevant development plan (including the development control code), the application shall be accompanied, in addition to the documents required by subparagraph (2) (b), by a written statement setting out the precise manner in which the proposed development differs therefrom and the reasons why, in the applicant's opinion, planning permission ought nevertheless to be granted.

(4) Where an application for planning permission is lodged with the Board or with the responsible authority in accordance with this paragraph, the Board or the responsible authority, as the case may be,

Consideration and determination of applications for planning permission

shall cause to be served forthwith on the applicant written confirmation that the application has been so lodged.

7. (1) For the purpose of considering or determining an application for planning permission, the Board or the responsible authority, as the case may be, may, by written directions served on the applicant, require him —

- (a) to provide such further information and submit such further plans and drawings in relation to the application as the Board or the responsible authority may think it necessary to have; and
- (b) to produce to an officer of the Board or of the responsible authority such evidence as the Board or the responsible authority may reasonably call for in order to verify any information, plan or drawing provided or submitted under this subparagraph.

(2) For the purpose of considering or determining an application for planning permission the Board or the responsible authority, as the case may be, shall —

- (a) determine and take into account whether the proposed development is or is not in conformity with the relevant development plan (including the development control code); and
- (b) where it determines that the proposed development is in conformity with the relevant development plan (including the development control code), further determine whether permission is or is not granted therefor by paragraph 3.

(3) If, at the expiry of the period of 7 weeks (or of such extended period for which provision has been made under subparagraph (4)) immediately after an application for planning permission has been lodged with the Board or referred to it by the responsible authority, the Board has failed —

- (a) to give notice to the applicant of its decision; or
- (b) to give notice to him that the application has been referred to the Minister in accordance with directions given by him under section 14 of the Act,

permission for the proposed development shall be deemed, for the purposes of the Act, to have been refused by the Board and notification of the Board's decision shall be deemed, for the purposes of the Act, to have been received by the applicant at the expiration of the aforesaid period of 7 weeks (or of such extended period for which provision has been made under subparagraph (4)) and section 15 (1) of the Act shall apply accordingly.

(4) The period of 7 weeks prescribed by subparagraph (3) may be extended or further extended by such period —

- (a) as the Minister may in writing direct, on application being made to him by the Board for this purpose; or
- (b) as the applicant may, in writing addressed to the Board, agree to.

(5) Where the period of 7 weeks prescribed by subparagraph (3) is extended or further extended by the Minister under subparagraph (4) (a), the Secretary of the Board shall forthwith serve written notice on the applicant of the extension or further extension, as the case may be.

(6) The responsible authority shall, within 5 weeks (or within such extended period for which provision has been made under subparagraph (7)) immediately after an application for planning permission has been

lodged with it, grant permission for the proposed development or refer the application to the Board under or in accordance with subparagraph (8):

Provided that this subparagraph shall not apply where the application has been referred to the Minister in accordance with directions given by him under section 14 of the Act.

(7) The period of 5 weeks prescribed by subparagraph (6) may be extended or further extended by such period as the applicant may, in writing addressed to the Board, agree to.

(8) Where an application for planning permission has been lodged with the responsible authority, the responsible authority may, for any reason, refer the application to the Board for the Board to determine the same:

Provided that the responsible authority shall so refer the application to the Board –

- (i) where the application is made on the basis that the proposed development is not in conformity with the relevant development plan (including the development control code);
- (ii) where, although the application is not made on that basis, the responsible authority is nevertheless of the opinion that the proposed development is not in conformity with the relevant development plan (including the development control code);
- (iii) where the proposed development is a large scale development; or
- (iv) where the responsible authority is of the opinion, for any reason, that permission for the proposed development ought to be refused.

(9) No application for planning permission shall be referred to the Board under or in accordance with subparagraph (8) unless the responsible authority has fully considered the application in accordance with this paragraph.

(10) Where an application for planning permission is referred to the Board under or in accordance with subparagraph (8), the responsible authority shall transmit to the Board –

- (a) such number of copies of the application form and of all other documents submitted to the responsible authority in connexion with the application as the Board may from time to time require;
- (b) all such information or evidence as may have been provided or produced to the responsible authority in connexion with the application; and
- (c) a written statement setting out –
 - (i) the opinion of the responsible authority in respect of the application; and
 - (ii) where it is of the opinion that planning permission ought to be granted, the conditions (if any) subject to which, in its opinion, that permission ought to be granted.

(11) The responsible authority shall cause to be served forthwith on the applicant a copy of every written statement transmitted to the Board in accordance with subparagraph (10) (c) together with written notice of the date of the next meeting of the Board.

(12) Notwithstanding paragraph 6 (1), where, in the case of an application for planning permission lodged with the responsible authority,

the responsible authority contravenes subparagraph (6) by failing to grant permission for the proposed development or to refer the application to the Board within the period of 5 weeks therein prescribed (or within such extended period for which provision has been made under subparagraph (7)), an application for planning permission may be lodged directly with the Board.

Power of Minister to give directions restricting grant of planning permission by Board or responsible authority in certain circumstances

8. (1) Where the Minister is of the opinion that any development for which permission has been granted by the Board or by the responsible authority has seriously prejudiced or is likely so to prejudice the objectives of the relevant development plan (including the development control code), whether that development is viewed alone or together with any other such development, he may give directions restricting the power of the Board or of the responsible authority to grant planning permission for such development or for development of such class as may be specified in the directions.

(2) Where any directions are given by the Minister under this paragraph, the Board or the responsible authority, as the case may be, shall comply with those directions.

Communication of decisions of Board or responsible authority

9. (1) The decision of the Board in respect of every application for planning permission referred to it by the responsible authority under or in accordance with paragraph 7 (8) or lodged with the Board under paragraph 7 (12) shall be communicated forthwith to the responsible authority (in addition to being communicated to the Minister in accordance with section 11 (3) of the Act) and every such communication (whether to the Minister or to the responsible authority) shall –

(a) where planning permission is granted by the decision, be in the form of a written statement setting out –

- (i) the applicant's full name and postal address;
- (ii) the date on which the application was referred to or lodged with the Board;
- (iii) the plot number or such other information sufficient to identify the land for the development of which permission has been granted;
- (iv) brief particulars of the development for which permission was sought and of the development for which permission has been granted including the conditions (if any) subject to which permission has been granted;
- (v) the date on which permission has been granted; and
- (vi) the reference number given by the Board to the application and, where it is known to the Board, the reference number given by the responsible authority to the application or, where the application was lodged with the Board under paragraph 7 (12), to the corresponding application originally lodged with the responsible authority; or

(b) where planning permission is refused by the decision, consist of a copy of the application form together with a copy of the written statement, setting out the reasons for the refusal, served on the applicant in accordance with paragraph 12 (a).

(2) Every decision of the responsible authority granting planning permission shall be communicated forthwith to the Board (in addition to being communicated to the Minister in accordance with section 11 (3) of

the Act) and every such communication (whether to the Minister or to the Board) shall be in the form of a written statement setting out –

- (a) the applicant's full name and postal address;
- (b) the date on which the application in question was lodged with the responsible authority;
- (c) the plot number or such other information sufficient to identify the land for the development of which permission has been granted;
- (d) brief particulars of the development for which permission was sought and of the development for which permission has been granted including the conditions (if any) subject to which permission has been granted;
- (e) the date on which permission has been granted; and
- (f) the reference number given by the responsible authority to the application in question.

10. (1) Where planning permission is granted by the Board or by the responsible authority, the grant of permission shall be signified by the Secretary of the Board or the member or officer of the responsible authority authorized in that behalf by the authority (in this paragraph referred to as "the authorized person"), as the case may be, date stamping and signing such number of copies of the application form and of the plans and drawings submitted under this Order in relation to the application as the Minister may from time to time specify.

Signification of grant of planning permission

(2) Where planning permission is granted by the Minister, he shall direct the Secretary of the Board to signify the grant of permission in the manner prescribed by subparagraph (1) and the Secretary shall forthwith comply with that direction.

(3) Where planning permission is granted by the Minister or by the Board or the responsible authority subject to conditions, no copy of the application form shall be date stamped and signed in accordance with this paragraph unless each of those conditions is clearly set out in the copy or in another document securely annexed thereto, which last document the Secretary of the Board or the authorized person, as the case may be, shall also date stamp and sign.

(4) At least one copy of every document date stamped and signed in accordance with this paragraph shall be served by the person so date stamping and signing it on the applicant.

11. (1) Where planning permission is granted by the Minister or by the Board or the responsible authority, the applicant shall ensure, subject to paragraph 15 (1), that at least one copy of every document date stamped and signed in accordance with paragraph 10 is kept at the site of the development in question.

Copies of application form etc. in respect of successful application for planning permission to be kept at development site

(2) The person having custody of the copies kept at the site of the development in accordance with subparagraph (1) shall immediately produce those copies for inspection by any member or officer of the Board or of the responsible authority on being required to do so at any reasonable time by such member or officer.

12. Where planning permission is refused by the Board, the Secretary of the Board shall forthwith serve a copy of the application form on the applicant together with –

Procedure on refusal of planning permission by Board

- (a) a written statement, signed by the Secretary, setting out the reasons for the refusal; and

General provisions governing notices of appeal to Minister
Appeals to Minister against Board's refusal of planning permission

(b) a written statement informing the applicant of his right of appeal under section 15 of the Act against the Board's decision and setting out the procedure for appeals.

13. Every notice of appeal to the Minister under section 15 of the Act against a refusal by the Board to grant planning permission or against any condition subject to which planning permission has been granted by the Board or the responsible authority shall be in writing and shall be served on the Minister together with the prescribed fee.

14. (1) Every notice of appeal to the Minister against a refusal by the Board to grant planning permission shall include —

- (a) the appellant's full name and postal address;
- (b) the date on which the application for planning permission was referred to or lodged with the Board;
- (c) the date on which planning permission has or is deemed to have been refused by the Board;
- (d) the plot number or such other information sufficient to identify the land for the development of which permission has or is deemed to have been refused by the Board;
- (e) brief particulars of the development for which permission has or is deemed to have been refused by the Board; and
- (f) the reference number given to the application for planning permission by the Board.

(2) Where the Minister allows an appeal against a refusal by the Board to grant planning permission —

- (a) planning permission shall be deemed, for the purposes of paragraphs 10 and 11, to have been granted by the Minister; and
- (b) where the appeal was in respect of an application for planning permission referred to the Board by the responsible authority under or in accordance with paragraph 7 (8) or lodged with the Board under paragraph 7 (12), the Minister shall direct the Secretary of the Board to communicate the Minister's decision to the responsible authority and the Secretary shall forthwith comply with that direction.

(3) Every communication such as is referred to in subparagraph (2) (b) shall contain the particulars prescribed by paragraph 9 (1) (a) and, in addition, the reference number given to the appeal by the Minister.

Appeals to Minister against conditions subject to which planning permission granted by Board or responsible authority

15. (1) Every notice of appeal to the Minister against any condition subject to which planning permission has been granted by the Board or the responsible authority shall be accompanied by every copy in the appellant's possession of the application form and of any other document annexed thereto, date stamped and signed in accordance with paragraph 10, and shall include —

- (a) the appellant's full name and postal address;
- (b) the date on which the application for planning permission was referred to or lodged with the Board or, where the application was neither referred to nor lodged with the Board, the date on which it was lodged with the responsible authority;
- (c) the date on which planning permission has been granted;
- (d) the plot number or such other information sufficient to identify the the land for the development of which permission has been granted;

- (e) brief particulars of the development for which permission has been granted; and
 - (f) the reference number given to the application for planning permission by the Board or, where the application was neither referred to nor lodged with the Board, the reference number given to it by the responsible authority.
- (2) Where the Minister allows an appeal against any condition subject to which planning permission has been granted by the Board, he shall –
- (a) transmit a certified true copy of his decision to the Secretary of the Board together with every copy of the application form and of any other document annexed thereto, date stamped and signed in accordance with paragraph 10, that accompanied the notice of appeal; and
 - (b) where the appeal arose out of an application for planning permission referred to the Board by the responsible authority under or in accordance with paragraph 7 (8) or lodged with the Board under paragraph 7 (12), transmit a certified true copy of his decision to the responsible authority.
- (3) On receipt of the certified true copy of the Minister's decision transmitted to him in accordance with subparagraph (2) (a), the Secretary of the Board shall alter every copy of the application form and of any other document annexed thereto, date stamped and signed in accordance with paragraph 10, to bring the conditions set out therein into conformity with the Minister's decision.
- (4) Where the Minister allows an appeal against any condition subject to which planning permission has been granted by the responsible authority, he shall –
- (a) transmit a certified true copy of his decision to the responsible authority together with every copy of the application form and of any other document annexed thereto, date stamped and signed in accordance with paragraph 10, that accompanied the notice of appeal; and
 - (b) transmit a certified true copy of his decision to the Secretary of the Board.
- (5) On receipt by the responsible authority of the certified true copy of the Minister's decision transmitted to the authority in accordance with subparagraph (4) (a), the member or officer of the responsible authority authorized in that behalf by the authority (in this paragraph referred to as "the authorized person") shall alter every copy of the application form and of any other document annexed thereto, date stamped and signed in accordance with paragraph 10, to bring the conditions set out therein into conformity with the Minister's decision.
- (6) Where the Secretary of the Board or the authorized person alters any document in accordance with subparagraph (3) or (5), he shall make thereon or securely annex thereto his written certificate to the effect that he has altered the document to bring it into conformity with the Minister's decision on appeal and shall date stamp and sign the certificate.
- (7) Having performed the duties imposed on him by subparagraph (3) or (5) and by subparagraph (6), the Secretary of the Board or the authorized person, as the case may be, shall forthwith return to the appellant every copy of the application form and of any other document

Period of validity of planning permission granted by Minister, Board or responsible authority

annexed thereto, signed and date stamped in accordance with paragraph 10, that accompanied the notice of appeal.

16. (1) Planning permission granted by the Minister or by the Board or the responsible authority shall be deemed, for the purposes of the Act, to be granted subject to the condition that the development for which that permission is so granted shall be completed within 2 years immediately after the date stamped on the relevant documents in accordance with paragraph 10.

(2) Any person to whom planning permission has been granted may at any time lodge a written application with the person or body by whom that permission was granted for the period of 2 years prescribed by subparagraph (1) to be extended or further extended.

(3) Every application under this paragraph shall —

(a) contain sufficient particulars to enable the original application for planning permission and any earlier application or applications under this paragraph to be readily identified; and

(b) set out the reasons why the application is being made.

(4) The Minister or the Board or the responsible authority shall consider every application lodged with him or it under this paragraph and may, by order in writing, extend or further extend the period of 2 years prescribed by subparagraph (1) for such period as he or it may think fit:

Provided that, where there is a responsible authority for the planning area or for the part of the planning area in which the development in question is being or is to be carried out, no such order shall be made by the Minister or by the Board unless he or it has first consulted the responsible authority.

Notice of reference of applications for planning permission to Minister

17. (1) Where the Minister gives directions to the Board or the responsible authority under section 14 of the Act requiring that any application for planning permission lodged with or referred to the Board or lodged with the responsible authority shall be referred to him, the Board or the responsible authority, as the case may be, shall, within 2 weeks immediately after receipt of the directions, cause to be served on the applicant written notice of the terms of the directions and of the reasons (if any) given by the Minister for giving the directions.

(2) Every notice under this paragraph shall include a statement —

(a) that the application has been or will be referred to the Minister in accordance with his directions; and

(b) that the Minister will, if the applicant so desires, afford him or his representative an opportunity of appearing before and being heard by a person appointed by the Minister for that purpose.

Board's register of applications for planning permission

18. (1) The register required to be kept by the Board by section 13 (2) of the Act (in this paragraph referred to as "the Board's register") shall be kept in 2 parts at the principal office of the Board in accordance with this paragraph.

(2) The first part of the Board's register shall be in respect of applications for planning permission lodged with the Board or referred to the Board by the responsible authority under or in accordance with paragraph 7 (8) and shall be kept by retaining, for at least 7 years, a copy of every application form together with a copy of every plan and drawing submitted or transmitted to the Board under this Order in connexion with every such application.

- (3) The second part of the Board's register shall contain –
- (a) in respect of every application for planning permission lodged with the Board or referred to the Board by the responsible authority under or in accordance with paragraph 7 (8), the following information –
- (i) particulars of the application, including the applicant's full name and postal address, the date of the application and brief particulars of the development in question; and
 - (ii) particulars of any decision or directions made or given under the Act or this Order in respect of the application, including any such decision or directions made or given on appeal or on a reference under section 14 of the Act; and
- (b) in respect of every application for planning permission in respect of which a responsible authority has granted planning permission, the written statement by which the relevant decision of the responsible authority was communicated to the Board in accordance with paragraph 9 (2).

(4) The Board's register shall include an index so that any entry in the register may be readily traced and that index shall be on the basis of geographic location and application reference number.

(5) Every entry required to be made in the Board's register shall be made forthwith.

19. (1) The register required to be kept by the responsible authority by section 13 (2) of the Act (read with section 22 (2) of the Act) (in this paragraph referred to as "the responsible authority's register") shall be kept in 2 parts at the principal office of the responsible authority in accordance with this paragraph.

Responsible authority's register of applications for planning permission

(2) The first part of the responsible authority's register shall be in respect of applications for planning permission in respect of which the responsible authority has granted planning permission and shall be kept by retaining, for at least 7 years, a copy of every application form together with a copy of every plan and drawing submitted to the responsible authority under this Order in connexion with every such application.

(3) the second part of the responsible authority's register shall contain in respect of every application lodged with the responsible authority or with the Board under paragraph 7 (12), the following information –

- (a) particulars of the application, including the applicant's full name and postal address, the date of the application and brief particulars of the development in question; and
- (b) particulars of any decision or directions made or given under the Act or this Order in respect of the application, including any such decision or directions made or given on appeal or on a reference under section 14 of the Act or under paragraph 7 (8).

(4) Paragraph 18 (4) and (5) shall apply to the responsible authority's register as if every reference therein to the Board's register were a reference to the responsible authority's register.

20. (1) Where any notice or other document is required to be served on any person by this Order, the service may be affected –

Service

- (a) by personal service;

- (b) by post;
 - (c) by leaving it for him with some person apparently over the age of 16 years at his usual or last known place of abode or business; or
 - (d) in the case of a corporate body or an association of persons, whether incorporated or not, by delivering it to the chairman, a director or the secretary or clerk of the body or association at the registered office or principal office in Botswana of the body or association or by serving it by post on such chairman, director, secretary or clerk at such office.
- (2) Service on any person by post of any notice or other document shall be deemed, for the purposes of this Order, —
- (a) to be effected by properly addressing to that person's last known private or business postal address, prepaying and posting, by registered mail, a letter containing the notice or other document; and
 - (b) to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Fees

21. Fees shall be payable under this Order as provided by the Second Schedule.

Temporary provisions pending operation of development plan

22. (1) During any period before a development plan has become operative in respect of the planning area or relating to any part thereof, the Minister may from time to time issue written guide-lines in respect of the planning area or that part of the planning area.

(2) Any written guide-lines issued by the Minister under this paragraph shall remain in force, unless earlier revoked, until a development plan in respect of the planning area or relating to the part of the planning area in question becomes operative.

(3) Where any written guide-lines issued by the Minister under this paragraph are in force in respect of the planning area or any part thereof, every reference in this Order to the relevant development plan shall, as regards the planning area or that part of the planning area, be deemed, for the purposes of this Order, to be a reference to those guide-lines.

FIRST SCHEDULE

(paras 3, 4)

CLASSES OF DEVELOPMENT FOR WHICH PERMISSION GRANTED DIRECTLY BY PARAGRAPH 3 WITHOUT RECOURSE TO BOARD OR RESPONSIBLE AUTHORITY

*Classes of development
for which permission
granted by paragraph 3*

*Conditions and limitations
subject to which permission
granted by paragraph 3*

GROUP I – CLASSES OF DEVELOPMENT RELATING TO DWELLING HOUSES

1. The carrying out of works for the maintenance or for the enlargement, improvement or other alteration of a dwelling house or for the erection, where none already exists, of a separate garage within the curtilage of a dwelling house.

- (a) The cubic content of the dwelling house (as ascertained by external measurement) shall not thereby be increased by more than 50 m³ or one tenth, whichever is the greater, subject to a maximum of 100 m³.
- (b) The height of the dwelling house shall not thereby be increased or exceeded.
- (c) No part of the dwelling house or of any garage shall thereby project beyond the forward most part of any wall of the dwelling house which, immediately before the works are carried out, fronts on a highway.

2. The carrying out of works for the erection, construction or placing or the maintenance or the enlargement, improvement or other alteration, within the curtilage of a dwelling house, of any building (other than a human dwelling or garage) or enclosure required for a purpose incidental to the enjoyment of the dwelling house as such (including the keeping of poultry, bees, pet animals or birds and the growing of fruits, flowers or vegetables).

- (a) The area of ground covered by buildings (other than by the dwelling house itself) within the curtilage shall not thereby exceed one tenth of the total area of the curtilage excluding the ground area of the dwelling house.
- (b) The height of any such building shall not or shall not thereby exceed, in the case of a building with a ridge roof, 4 m or, in the case of any other building, 3 m.
- (c) No part of any such building or enclosure shall or shall thereby project beyond the forward most part of any wall of the dwelling house which fronts on a highway.

3. The construction, within the curtilage of a dwelling house, of a hard standing for vehicles for a purpose incidental to the enjoyment of the dwelling house as such.

GROUP II – CLASSES OF DEVELOPMENT CONSISTING OF SUNDRY MINOR OPERATIONS

1. The carrying out of works for the erection or construction or the maintenance or the improvement or other alteration of any gate, fence, wall or other means of enclosure.

2. The painting of the exterior of any building or other works.

GROUP III – CLASSES OF DEVELOPMENT RELATING TO BUILDINGS ETC. OR USES TEMPORARILY NEEDED

1. The carrying out of works for the erection, construction or placing on land in, on, over or under which any operation is being or is about to be carried out or on land adjacent to such land of any building, works, plant or machinery temporarily needed in connexion with the operation.

2. The making of a material change in the use of land for not more than 28 days in aggregate in any one year and the erection or placing of movable structures on the land for the purpose of the temporary use.

GROUP IV – CLASSES OF DEVELOPMENT RELATING TO THE USE OF LAND FOR AGRICULTURAL PURPOSES

1. The carrying out of building or engineering operations for agricultural purposes within an area allocated for use for such purposes by the relevant development plan.

2. The working and winning, on land held or occupied with land used for agricultural purposes within an area allocated for use for such purposes by the relevant development plan, of any mineral required for the purposes of that use including –

(a) Such works shall not include works for the provision of a new access or the alteration of an existing access from any adjacent highway.

(b) The height of any such means of enclosure shall not or shall not thereby exceed 1,25 m.

Such painting shall not be for the purpose of advertisement, announcement or direction.

(a) The principal operation shall be one for which planning permission has been granted or is not required.

(b) Every such building, works, plant or machinery shall be removed forthwith upon the completion of the principal operation and, where the same are sited on such adjacent land, that land shall thereupon be rehabilitated.

No part of any building (other than a movable structure) or works erected, constructed or otherwise effected in the carrying out of such operations shall be within 35 m of the centre line of a public road.

No part of any excavation made for the purpose of working or winning any such mineral shall be within 35 m of the centre line of any public road.

- (a) the fertilization of the land so used; and
- (b) the maintenance or the improvement or other alteration of buildings or works which are occupied or used for the purposes of that use.

GROUP V – CLASSES OF DEVELOPMENT RELATING TO THE USE OF LAND FOR FORESTRY PURPOSES

The carrying out of building and other operations for forestry purposes (including afforestation) within an area allocated for use for such purposes by the relevant development plan and the construction, maintenance or alteration of private ways within such an area.

No part of any building (other than a movable structure) or works erected, constructed or otherwise effected in the carrying out of such operations shall be within 35 m of the centre line of a public road.

GROUP VI – CLASSES OF DEVELOPMENT RELATING TO THE USE OF LAND FOR INDUSTRIAL PURPOSES

The carrying out of works of the following descriptions, by an industrial undertaker within an area allocated for use for the carrying out of any industrial process by the relevant development plan, for the purposes of such process –

- (a) the installation or erection, by way of addition or replacement, of plant or machinery or structures or erections of the nature of plant or machinery;
- (b) the provision, rearrangement or replacement of private ways, private railways (including railway sidings) or conveyors; or
- (c) the provision or rearrangement of sewers, mains, pipes, cables or other apparatus.

The height of any plant or machinery or structures or erections of the nature of plant or machinery installed or erected by way of replacement shall not exceed that of the plant or machinery or structures or erections of the nature of plant or machinery thereby replaced.

GROUP VII – CLASSES OF DEVELOPMENT RELATING TO THE USE OF LAND FOR MINING PURPOSES

1. The carrying out of works or the making of a material change in the use of any building or other land, by the holder of a mining lease or restricted mining lease, within an area allocated for use for mining purposes by the relevant development plan, which works or change in use are directly necessary for winning the mineral to which the lease relates.

The works or change in use shall be carried out or made in accordance with the lease and with the Mines and Minerals Act. Cap. 66:01

2. The carrying out of works, by the holder of a mining lease, within an area allocated for use for mining purposes by the relevant development plan, for the erection, construction or placing or the maintenance or the enlargement, improvement or other alteration of any —

- (a) training school;
- (b) railway;
- (c) power station;
- (d) transformer station;
- (e) power line;
- (f) fuel storage depot;
- (g) fuel storage tank;
- (h) tailings pond;
- (i) drainage ditch;
- (j) sewerage treatment plant;
- (k) cess pool;
- (l) tank;
- (m) reservoir;
- (n) sawmill;
- (o) concrete block plant;
- (p) concrete mixing plant;
- (q) fence; or
- (r) sign,

not directly related to townsite development for the benefit of the community at large, or the making of a material change in the use of any such thing, by the holder of such a lease, within such an area.

GROUP VIII — CLASSES OF DEVELOPMENT RELATING TO UNADOPTED STREETS OR PRIVATE WAYS

The carrying out of works for the maintenance of an unadopted street or private way.

GROUP IX — CLASSES OF DEVELOPMENT RELATING TO OPERATIONS CARRIED BY LOCAL AUTHORITIES

The carrying out of works for the erection, construction or placing or the maintenance or the improvement or other alteration by a local authority of —

- (a) such small ancillary buildings, works or equipment as are reasonably required on land belonging to or occupied or maintained by the local authority for the purpose of performing on that land any function vested in the local authority; or

(a) The works or change in use shall be carried out or made in accordance with the lease and with the Mines and Minerals Act.

(b) No such works or change in use shall be carried out or made unless the Minister for the time being responsible for town and country planning has been consulted during the planning stage of the relevant feasibility report approved by the Minister for the time being responsible for mines.

The works shall be carried out within the boundaries of the street or way in question.

The works shall be carried out in accordance with any written law applicable thereto.

(b) lamp standards, information kiosks, passenger shelters and kiosks, telephone boxes, fire alarms, public drinking fountains, refuse bins or baskets, barriers for the control and safety of persons waiting to enter public service vehicles, and such similar structures or works as are reasonably required in connexion with the operation of any public service administered by the local authority.

GROUP X – CLASSES OF DEVELOPMENT RELATING TO OPERATIONS CARRIED OUT BY ROAD AUTHORITIES

The carrying out by a road authority of works required for or incidental to the maintenance or improvement of an existing road.

- (a) The works shall be carried out in accordance with any written law applicable thereto.
- (b) The works shall be carried out within the boundaries of the road reserve of the road in question.

GROUP XI – CLASSES OF DEVELOPMENT RELATING TO OPERATIONS CARRIED OUT BY DRAINAGE AUTHORITIES

The carrying out by a drainage authority, in, on or under any existing watercourse or drainage works, of works required for or incidental to the maintenance or improvement of such watercourse or drainage works.

The works shall be carried out in accordance with any written law applicable thereto.

GROUP XII – CLASSES OF DEVELOPMENT RELATING TO OPERATIONS CARRIED OUT BY SEWERAGE AUTHORITIES

The carrying out by a sewerage authority of works required for or incidental to the maintenance or improvement of an existing sewer.

- (a) The works shall be carried out in accordance with any written law applicable thereto.
- (b) The works shall not involve any change above ground level other than a temporary change.

GROUP XIII – CLASSES OF DEVELOPMENT RELATING TO THE USE OF LAND BY RAILWAY AUTHORITIES

Development by a railway authority of operational land of the authority required

- (a) The development shall be in accordance with any written law applicable thereto.

for or incidental to the movement of traffic by rail.

- (b) The development shall not include the carrying out of works for the erection, construction or placing of any residential building, office or workshop unless the same is wholly situated within the perimeter of an existing railway station.
- (c) The development shall not involve or result in the obstruction of the view of any person using a road used by vehicular traffic in such a way as to endanger or be likely to endanger any person or property.

GROUP XIV – CLASSES OF DEVELOPMENT RELATING TO OPERATIONS CARRIED OUT BY ELECTRICITY AUTHORITIES

The carrying out by an electricity authority of works required for or incidental to the maintenance or improvement of existing electricity distribution lines including the installation of new service lines to individual consumers from an existing distribution line.

The works shall be carried out in accordance with any written law applicable thereto.

GROUP XV – CLASSES OF DEVELOPMENT RELATING TO OPERATIONS CARRIED OUT BY WATER AUTHORITIES

The carrying out by a water authority of works required for or incidental to the maintenance or improvement of existing water mains, water distribution pipes, services and all associated waterworks fittings (including hydrants, valves and associated surface boxes, valve marker posts etc.) required to supply water to consumers within a waterworks area including the installation of new service pipes from an existing distribution pipe.

The works shall be carried out in accordance with any written law applicable thereto.

GROUP XVI – CLASSES OF DEVELOPMENT RELATING TO OPERATIONS CARRIED OUT BY FIRE AUTHORITIES

The carrying out of works by a fire authority required for or incidental to the installation or maintenance of fire hydrants.

GROUP XVII – CLASSES OF DEVELOPMENT RELATING TO OPERATIONS CARRIED OUT BY POSTAL AUTHORITIES

1. The carrying out by a postal authority, in performance of its functions as such, of works for the erection, construction or placing or the maintenance or the improvement or other alteration of –

- (a) public telephone boxes, posting boxes or selfservice postal machines; or
- (b) telegraphic service lines for individual subscribers in the exercise of a servitude or other right.

2. The making by a postal authority, in performance of its functions as such, of a material change in the use of any land by the stationing and operation of movable apparatus required for the replacement of telephone exchanges, telephone repeat stations, radio stations generators which have become unservicable.

The works shall be carried out in accordance with any written law applicable thereto.

- (a) The change in use shall not be made except in a case of emergency.
- (b) The changed use shall not continue for more than 6 months.
- (c) At the expiry of the said period of 6 months or at the conclusion of the changed use, whichever is earlier, the apparatus shall forthwith be removed and the land rehabilitated.

GROUP XVIII – CLASSES OF DEVELOPMENT RELATING TO OPERATIONS FOR SOIL INVESTIGATION

The carrying out of works for the sinking of a borehole to ascertain the nature of the subsoil or for the installation or erection of plant or machinery or structures or erections of the nature of plant or machinery reasonably required in connexion therewith.

6 months immediately after the commencement of the works or at the completion of the purpose for which the borehole was sunk, whichever is the earlier, the plant or machinery or structures or erections of the nature of plant or machinery shall forthwith be removed and the land rehabilitated.

GROUP XIX – CLASSES OF DEVELOPMENT RELATING TO AERODROMES

Development of land within the perimeter of an existing aerodrome for such maintenance or improvement of the aerodrome as is required for or incidental to the movement of traffic by aircraft.

- (a) The development shall be in accordance with any written law applicable thereto.
- (b) The development shall not include the carrying out of works for the erection, construction or placing of any residential building, office or workshop.

GROUP XX – CLASSES OF DEVELOPMENT RELATING TO CHANGES IN THE USES OF BUILDINGS OR OTHER LAND

Any change in the use of any buildings or other land whereby such use remains wholly within any one of the following classes of use –

Class A

Use as a single – family dwelling.

Class B

Use as a home for old people, children's hospital, sanitarium, nursing home or school for the handicapped.

Class C

Use as a mental hospital, mental sanitarium, prison or house of correction.

Class D

Use as a boarding house, guest house, residential club or hotel providing sleeping accommodation.

Class E

Use as the residential section of a school or college.

Class F

Use as an office, including a bank or building society office open to the public but excluding a post office.

Class G

Use as buildings in which light industrial processes are carried on which, if carried on in a residential area, would not result in loss of amenity to that area through noise, smoke, rubbish, odors, light, shadow, gases or temperature changes.

Class H

Use as general industrial buildings or a factory, such use not falling within Class G.

Class I

Use in a manner reasonably regarded as injurious to visual or other amenities, including use for any of the following purposes –

- (a) smelting or reduction of ores, minerals or concentrates;
- (b) forging or casting of iron or other metals;
- (c) recovery of metal from scrap;
- (d) brick burning or crushing of stone;

- (e) chemical processes such as the manufacture of paint or varnish;
- (f) noxious industries, including those for the processing of animal products.

Class J

Use as a shop, other than a change to use as a take-away cooked food shop, bottle store, butchery, motor vehicle showroom or petrol filling station.

Class K

Use of buildings as a place of public worship or religious instruction or for the social or recreational activities of the religious body using the buildings.

Class L

Use as buildings providing a service to the community, including a school, clinic or day care centre.

Class M

Use of buildings as a museum, library or hall generally used by the public.

Class N

Use of buildings as a theatre, cinema, dance hall, discotheque or bar or other licensed premises.

Class O

Use as a stadium, reviewing stand or amusement park.

Class P

Use of buildings as a wholesale warehouse or repository of any kind.

SECOND SCHEDULE

(para. 21)

FEES

1. Where an application is lodged with the Board or the responsible authority under paragraph 6 of this Order for permission —

- (a) to erect, construct or place or to enlarge, improve or otherwise alter any building (other than a building in or intended for residential use situated within a self-help (site and service) housing area); or
- (b) to make any material change in the use of any building,

there shall be lodged, together with the application, a fee calculated on the basis of the aggregate area of all the floors of the building, measured inside the enclosing external walls of the building, in accordance with the following scale —

<i>Aggregate floor area</i>	<i>Fee</i>
not exceeding 150 m ²	—
exceeding 150 m ² but not exceeding 500 m ²	P 8,00
exceeding 500 m ² but not exceeding 2 000 m ²	P16,00
exceeding 2 000 m ²	P32,00.

2. For the issue by the Board or by the responsible authority of maps and other documents relating to the control of development, such minor fees shall be payable as the Board or the responsible authority with the approval of the Board, as the case may be, may determine.

3. For removing doubts, it is hereby declared that, where an application is lodged directly with the Board under paragraph 7 (12) of this Order, no fee shall be payable in addition to the fee (if any) lodged together with the corresponding application originally lodged with the responsible authority.

MADE this 4th day of July, 1980.

L.M. SERETSE,
Minister of Local Government and Lands.

L2/7/96 III