

OBJECTS AND REASONS

This Bill would make provision for

- (a) the establishment of technical standards for buildings to ensure that they are safe and that they have a means of escape from fire;
- (b) the registration of building practitioners;
- (c) the granting of building permits, completion certificate and the issuing of building notices and orders;
- (d) the establishment of a building appeals process, and for related purposes.

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SCHEDULE

BARBADOS

A Bill entitled

An Act to provide for

- (a) the establishment of technical standards for buildings to ensure that they are safe and that they have a means of escape from fire;
- (b) the registration of building practitioners and review consultants;
- (c) the granting of building permits and completion certificates;
- (d) the establishment of a building appeals process, and for related purposes.

ENACTED by the Parliament of Barbados as follows:

PART I

Preliminary

1. This Act may be cited as the *Building Standards Act, 2005*.
2. The objects of this Act are
 - (a) to establish, promote, maintain and improve building standards and to further the conservation of fuel and power;
 - (b) to facilitate the use of uniform building standards;
 - (c) to facilitate uniform certification of building products, building designs and building components and to further the achievement of sustainable development;
 - (d) to maintain, enhance and improve the safety of buildings;
 - (e) to promote the construction of buildings with adequate provisions for persons with disabilities;
 - (f) to provide an efficient and effective system for granting buildings permits, administering building matters and facilitating building appeals;
 - (g) to process applications for registration from building practitioners so as to ensure uniformity in the training, qualifications and experience;
 - (h) to facilitate the cost effective construction of buildings;
 - (i) to assist the achievement of an efficient and competitive building industry.

3. In this Act unless the context otherwise requires

"adjoining property", in relation to building work, means a property (including a highway) that has a common boundary;

"Appeals Board" means the Building Standards Appeal Board established by **section 14**.

"approved insurer" means insurer as defined in The Insurance Act Cap 310

"authorised officer" means a person appointed to be, or who is a member of a class of persons appointed to be, an authorised officer under **section 108(1)**;

"Authority" means the Building Standards Authority established under **section 5**.

"building area" means a part of Barbados to which, under **section 4(2)**, all or any of the provisions referred to in that section are declared to apply;

"building" means a structure (including a structure intended for occupation by people, animals, machinery or chattles) or erection whether temporary or permanent movable or immovable including any wires and cables used to support telephonic or telegraphic communication mast pole or aerial that is on, or forms part of, a building and that is more than 7m in height above the point of its attachment or base (except a dish aerial that is less than 2m wide);

"building notice" means a notice referred to in **sections 60**;

building order" means a building order made under **section 63**;

"building permit" means a permit to carry out building work granted under this Act;

"building practitioner" means a person registered under **section 17** in any of the following categories of building practitioners:

- (a) architects;
- (b) engineers;
- (c) artisans;
- (d) a prescribed category.

"building work" means work for or in connection with the construction, demolition or removal of a building and includes (site work; and building design);

“change of use” means such change in the use or occupation or classification of the building as will bring it within a class of building to which additional provisions of the Building Code applies, or it is already within such a class, within a class to which additional provisions of the Building Code will apply.

"construct", in relation to a building, includes:

- (a) erecting, re-erecting, prefabricating or relocating of a building;
- (b) the repairing of a building;
- (c) the alteration of a building;

(d) the enlarging extension or change of use of a building; and

(e) any construction related matters;

‘completion certificate’ includes a temporary completion certificate and means a document certifying that the building or part of the building to which it applies is suitable for occupation.

"Director" means the Director of Building Standards Authority appointed under **section 8**;

“emergency lighting” means lighting, designed to come into, or remain in operation automatically, in the event of either a local or general power failure;

“fire hazard” means the danger of potential harm and degree of exposure arising from

(a) the start and speed of fire; and

(b) the smoke and gases that are generated by the start and spread of fire

"fire upgrading report" means a report prepared under **section 66**;

"completion certificate" means a document certifying that the building or part of the building to which it applies is suitable for occupation ;

“highway” as defined in the Highways Act Cap 289 and includes footpath and pavement;

"owner", in relation to land and buildings, includes every person who jointly or severally

(a) is entitled to the land for an estate of freehold in possession;

(b) is a person to whom the Crown has lawfully contracted to sell the land under an the *Crown Lands (Vesting and Disposal) Act Cap. 225*; or

(c) is entitled to receive or is in receipt of, or if the land were let to a tenant, would be entitled to receive the rents and profits of the land, whether as beneficial owner, trustee, mortgagee in possession or otherwise;

“a person with a disability” means a person who has an impairment or a combination of impairments that limits the extent to which the person can engage in the activities, pursuits and processes of everyday life, including any of the following:

(a) physical sensory neurological or intellectual impairment

(b) a mental illness

“plans and specifications” means

(a) the drawings, specifications, and other documents according to which a building is proposed to be constructed, altered, demolished, or removed; and

(b) includes the proposed procedures for inspection during the construction, alteration, demolition, or removal of a building; and

(c) in the case of the construction or alteration of a building, also includes –

- (i) the intended use of the building; and
- (ii) the proposed procedures for inspection and routine maintenance for the purposes of the compliance schedule for those specified systems.

"practitioners board" means the Building Practitioners Board established by **section 10**;

"public assembly" means an assembly of persons whether or not admission to the assembly is gained on payment of money or other consideration and whether or not its purpose is public entertainment;

"public authority" means the Crown, a public authority established by or under an Act, a statutory body representing the Crown, and includes persons exercising functions on behalf of the Crown, the public or local authority or statutory body;

"registrar", in relation to the Authority or Board means the person who has been so appointed by the Authority or Board;

"regulations" includes a code standard or other document adopted by the Regulations for the purposes of this Act;

"relevant person", in Part IX, means the owner of land or a building who proposes to carry out building work on the land or in the building;

4. (1) The Minister may, by notice in the *Official Gazette*, declare that all or any of the provisions of this Act apply to the parts of Barbados specified in the notice and on the Minister so declaring, those provisions shall apply accordingly.

(2) The Minister may, by notice in the *Official Gazette*, declare that a provision of the Regulations specified in the notice does not apply to a part of Barbados specified in the notice and on the Minister so declaring the provision shall not apply to that part of Barbados.

PART II

FUNCTIONS, POWERS AND DUTIES OF BUILDING STANDARDS AUTHORITY

5. (1) There is established an Authority to be known as the Building Standards Authority.

Establishment of Building Standards Authority
Cap.1

(2) The Authority is a body corporate to which, subject to this Act, section 21 of the *Interpretation Act* applies.

6. (1) The Authority shall consist of such members appointed by the Minister, from persons having knowledge and experience in

Membership of Authority

(a) the building industry or matters connected therewith;

(b) consumers affairs; and

(c) the provision of facilities for people with disabilities, as the Minister thinks fit.

(2) The provisions of the *Schedule* shall have effect with respect to the members and procedure of the Authority. Schedule

7. (1) The Authority shall have the following functions under this Act: Functions and Powers of Authority.

(a) to advise the Minister on the administration of this Act;

(b) to investigate and report to the Minister on all matters related to this Act that are referred to it by the Minister;

(c) to approve documents for use in establishing compliance with the provisions of this Act;

(d) to promote research into building matters;

(e) to advise in the use of building products, construction methods, building designs, building components and building systems;

(f) generally to take all such steps as may be necessary or desirable to achieve the purposes of this Act.

(2) In carrying out the functions referred to under subsection (1) the Authority shall consult with the Barbados Fire Service in respect of any of those functions which involve advice, approval and determinations relating to

(a) matters of fire safety and recognised fire-engineering practice; and

(b) any appointment of a review consultant in respect of any provisions of this Act which relate to fire safety and recognised fire-engineering.

(3) Subject to this Act, in the exercise of its functions and powers the Authority shall establish for its use, procedures that are appropriate and fair in the circumstances and shall comply with the principles of natural justice.

8. The Minister may after consultation with the Building Standards Authority appoint a Director of Building Standards.

9. (1) The functions of the Director are

(a) to advise the Minister on all matters relating to building control in Barbados;

(b) to liaise with groups and bodies involved in the building industry and with other interested groups or bodies on building matters;

(c) to publish reports, disseminate information and provide educational programmes on building matters;

(d) to investigate and report on any building matters when required by the Minister to do so;

(e) to liaise with any national body established to deal with building regulation matters; and

(f) to carry out periodic reviews of this Act and the Regulations.

(2) The Director shall have such powers as are conferred on him by or under this or any other Act, and subject to this Act, may do all things necessary or convenient to be done for or in connection with or incidental to the performance of his functions and the exercise of his powers.

(3) The Director shall keep at his office and make available to members of the public for inspection during normal office hours, a register of building permits, notices, orders and completion certificates.

Establishment of Practitioners Board

10. (1) There is established by this section a Board to be known as the Building Practitioners Board.

(2) The Practitioners Board shall consist of such members appointed by the Minister, having experience in the building industry or in matters connected with the building industry, as the Minister thinks fit, of whom

(a) one shall be appointed to be its Chairman; and

(b) one other shall be appointed to be its Deputy Chairman.

(3) Without limiting the generality of subsection (2), the Director or a member of the Building Authority may be appointed as a member of the Practitioners Board.

(4) The provisions of the *Schedule* shall have effect with respect to the members and procedure of the Practitioners Board.

Functions and Powers of Practitioners Board

11. The functions of the Practitioners Board are

(a) to evaluate and determine the qualifications experience training and suitability of building practitioners;

(b) to register persons as building practitioners; and

(c) such other functions as are imposed on it by or under this or any other Act or as directed by the Minister.

- Determinations to be published. **12.** A determination made in pursuance of **section 11** shall be published in the *Official Gazette* by the Practitioners Board and in such other manner, if any, as is approved by the Minister.
- Register of Building Practitioners. **13.** (1) The Practitioners Board shall cause to be maintained a register of building practitioners with separate sections for each category of building practitioner.
- (2) The Practitioners Board may give directions for the purposes of correcting information in the register.
- Establishment of Appeals Board. **14.** (1) There is established a Building Standards Appeals Board to be known as the Appeals Board.
- (2) The Appeals Board shall consist of such members appointed by the Minister, having experience in the building industry or matters connected with the building industry, as the Minister thinks fit, to whom
- (a) one shall be appointed to be its Chairman; and
- (b) one other shall be appointed to be its Deputy Chairman.
- (3) Without limiting the generality of subsection (2), the Director, a member of the Building Authority or a member of the Practitioners Board may be appointed as a member of the Appeals Board.

Schedule

- (4) The provisions of the *Schedule* shall have effect with respect to the members and procedure of the Appeals Board.

Functions and Powers of the Appeal Board

- 15.** (1) The functions of the Appeals Board are
- (a) to determine appeals under **section 78** relating to the application of the Regulations to land buildings or building works;
- (b) to determine appeals relating to disputes about;
- (i) the effect of the Regulations or the manner in which the Regulations are to be or have been complied with; and
- (c) such other functions as are imposed on it by or under this or any other Act.
- (2) The Appeals Board has such powers as are conferred on it by or under this or any other Act and subject to this Act, may do all things that are necessary or convenient to be done for or in connection with or incidental to the performance of its functions and the exercise of its powers.

Delegation by Minister, Authority and Director

- 16.** (1) The Minister may, in writing, delegate to a person or to the holder from time to time of a specified office, any of the Minister's powers and functions under this Act, other than

(a) this power of delegation; or

(b) the Minister's powers under **sections 4(1) and (2) or 6(1)**.

(2) The Authority and Director may, in writing, delegate to a person or to the holder from time to time of a specified office, any of the Authority's or Director's powers and functions under this Act, other than this power of delegation.

(3) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purposes of this Act, be deemed to have been exercised or performed by the Minister, Authority or the Director as the case may be.

(4) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Minister, the Authority or the Director.

[(5) Where the Minister, having regard to matters which are of national significance, is of the opinion that it is in the public interest to do so, the Minister may, by notice in the *Official Gazette*, declare that for specified building work or a specified building, temporary structure or place, any or all of the functions under this Act shall be performed or exercised by the Authority or the Director.]

(6) Where a declaration has been made by the Minister under subsection (5), no person other than the Authority or the Authority's delegate shall perform those functions or exercise those powers.

PART III

REGISTRATION OF BUILDING PRACTITIONERS

Division 1 - Registration

17. (1) A person shall not

(a) take or use the title of building practitioner;

(b) perform a function or exercise a power of, or work as, a building practitioner; or

(c) in any way imply that he is

(i) registered under this Part; or

(ii) authorised to perform a function or work for which registration is required under this Part, unless he is appropriately registered under this Part.

(2) Any person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$5000.

Application Fees

18. (1) The Minister may by order prescribe any fees that are to be paid under this Act.

(2) A person may, in a form approved by the Practitioners Board and accompanied by the prescribed fee, apply to the Board to be registered as a building practitioner. (Exceptions Engineers, Architects, Land Surveyors, Electrical Wiremen)

Registration of Building Practitioner

19. (1) Where the Practitioner Board is satisfied, on an application under **section 18**, that an individual

(a) is of good character and a fit and proper person to be so registered as evidence in a police certificate of character;

(b) holds the relevant qualifications determined by the Board in relation to the particular category of building practitioner specified in the application; and

(c) has complied with the prescribed conditions, it shall register the person as a building practitioner in the category specified in the application.

19. (2) The Practitioner's Board shall keep a Register to be known as the Building Practitioner's Register in which shall cause to be entered the name of every person entitled to be registered as a building practitioner together with the following particular in respect of each such person.

(a) Full name and address

(b) Date of registration, a description and date of qualification in respect of which he is registered.

(3) Where the Practitioners Board is satisfied, on an application under **section 18**, on behalf of a firm or body corporate that

(a) all of the individuals who constitute the firm would be fit and proper persons to be so registered if the application had been made by them individually;

(b) at least one of the individuals holds the qualification determined by the Board in relation to the particular category of building practitioners specified in the application and is registered as a building practitioner in that category; and

(c) the firm or body corporate has complied with the prescribed conditions, if any, the Board shall register the firm or body corporate as a building practitioner in the category of building practitioners specified in the application.

(4) Conditions prescribed for the purposes of subsections (1)(c) or (2)(c) may include a condition requiring a building practitioner to hold a policy of professional indemnity or other insurance of a type or for an amount, or both, approved by the Practitioners Board.

(5) A person shall not perform a function of a building practitioner unless that person holds a policy of insurance required as a condition of his registration as a building practitioner.

(6) Where a person contravenes the provisions of this section, that person is guilty of an offence and liable on summary conviction to a fine of \$10 000.

(7) When an offence under subsection (1) is committed by a body corporate and a director or officer of that body corporate knowingly authorised, permitted or acquiesced in the commission of the offence, that body corporate is liable on summary conviction to a fine of \$30 000.

Function of Building Practitioner by Natural Person

20. (1) Where a function of a building practitioner is carried out by an unincorporated body, firm or partnership

(a) it shall be carried out by or at the direction of a partner who is a building practitioner in the relevant category and shall be certified by that partner; and

(b) the firm shall cause the name of the partner to appear in all advertisements in respect of the relevant function published by or on its behalf.

(2) Where a function of a building practitioner is carried out by a body corporate

(a) it shall be carried out by or at the direction of a person concerned in the management or conduct of the body corporate who is a building practitioner in the relevant category and shall be certified by that person; and

(b) the body corporate shall cause the name of the person to appear in all advertisements in respect of the relevant function published by or on its behalf.

(3) Where an individual or body corporate contravenes the provisions of this section that individual or body corporate is guilty of an offence and liable on summary conviction to a fine of \$10 000.

Division 2 - Discipline

21. The Practitioners Board may by order, cancel or suspend for such period as it specifies in the order, the registration of a building practitioner if it is satisfied that

(a) the registration was obtained by fraud or misrepresentation;

(b) the building practitioner has been convicted of an offence punishable by imprisonment for a term exceeding 12 months under an enactment in force in Barbados;

(c) the building practitioner has been convicted of an offence under this Act or the Regulations;

(d) the building practitioner has been negligent as a building practitioner;

(e) a statement or certificate made or given by the building practitioner in relation to building work is to the knowledge of the building practitioner, false in a material particular and was made or given for the purpose of inducing a person to enter into a contract for the carrying out or the completion of building work or for the purpose of inducing a person to purchase land on which building work has been, is being or is to be carried out;

(f) the building practitioner has been found guilty of fraudulent conduct as a building practitioner; or

(g) the building practitioner has not complied with a prescribed condition relating to his registration as a building practitioner.

Division 3 – Inquiries

22. (1) The Practitioners board may not make an order under **section 21** unless the building practitioner has been given the opportunity of appearing before the Board either personally or by a representative and has had an opportunity of being heard.

Inquiry by Practitioner Board

(2) The Practitioners Board shall not later than 7 days before an inquiry is to be held, give to the building practitioner written notice advising him or her of the place and time at which the building practitioner may appear and be heard in the matter of the inquiry.

Procedure

23. (1) The Practitioners Board shall determine its own procedures in relation to an inquiry except to the extent that its procedures are prescribed.

(2) An inquiry by the Practitioners Board shall be conducted with as little formality and technicality, and with as much expedition, as the requirements of this Act and the Regulations, and as the proper consideration of the matters before the Board, permit.

Inquiry to be Open

24. An inquiry referred to in **section 23** shall be open to the public unless otherwise directed by the Practitioners Board.

Attendance by Witnesses

25. (1) The Practitioners Board may by notice in writing served on a person, require that person to attend an inquiry for the purpose of giving evidence or producing a document to the inquiry at a time, date and place specified in the notice.

(2) The Practitioners Board may keep a document produced to it under this section for as long as it considers necessary for the purpose of completing the inquiry.

(3) A person who refuses to comply with the requirements of subsection (1) and fails to attend an inquiry or to produce a document which that person is reasonably able to supply, is guilty of an offence and is liable on summary conviction to a fine of \$1 000.

Oaths

26. The Practitioners Board may require a person who attends an inquiry to be sworn for the purposes of giving evidence on oath and for that purpose may administer an oath or an affirmation.

Lesser Penalty

27. (1) Where the Practitioners Board is satisfied after an inquiry referred to in **section 22**, that the conduct of a building practitioner does not justify an order under **section 21**, it may instead (a) reprimand the building practitioner; or

(b) impose a fine, not exceeding \$1,000 on the building practitioner.

(2) A fine imposed under subsection (1) is a debt due and payable by the building practitioner to the Crown.

Costs

28. Where, after an inquiry referred to in **section 22**, the Practitioners Board finds in favour of the building practitioner, it may order that all or such part of the building practitioner's reasonable costs in the inquiry, as it specifies, be paid to the building practitioner, and the Crown is liable to pay those costs accordingly.

Division 4 - Appeals

29. (1) A person aggrieved by an action of the Practitioners Board under this Part may, within 30 days after being notified of the action, appeal to the Magistrate's Court against the action.

(2) An appeal under subsection (1) shall be by way of a review of the evidence before the Practitioners Board and no fresh evidence or fresh information may be given on the appeal unless, in the opinion of the Court, there were special reasons that prevented its presentation to the Practitioners Board at the inquiry under Division 3.

(3) The decision of the Magistrate's Court on an appeal under subsection (1) is final and is not subject to appeal, and the Practitioners Board shall carry out the directions of the Court resulting from its decision.

(4) The costs imposed by the Magistrate's Court in an appeal under subsection (1) are a debt and are payable by the party against whom they are awarded to the party in whose favour they are awarded.

Employer to be Advised

30. Where

(a) a person has not, within the time limited by **section 29(1)** lodged an appeal under that section against an action of the Practitioners Board; or

(b) an appeal under that section is dismissed, the Board shall notify its action to the employer, if any, of the building practitioners to whom it relates and to the professional association, if any, of which the building practitioner is known by the Board to be a member and may notify such other persons, as it thinks fit.

Division 5 - General

Certificate to be Displayed

31. (1) A building practitioner shall

- (a) display the certificate of registration in a conspicuous place at the building practitioner's principal place of business in Barbados; or
 - (b) on his or her person in the form of an appropriate registration card issued by the Authority.
- (2) Where a building practitioner fails to comply with the requirements of subsection (1), that building practitioner is guilty of an offence and liable on summary conviction to a fine of \$2 000.
- (3) The decision of the Magistrate's Court on an appeal under subsection (1) is final and is not subject to appeal, and the Practitioners Board shall carry out the directions of the Court resulting from its decision.
- (4) The costs imposed by the Magistrate's Court in an appeal under subsection (1) are a debt and are payable by the party against whom they are awarded to the party in whose favour they are awarded.

PART 1V

REVIEW CONSULTANT

Applicant Required to Employ Review Consultant

- 32** (1) The Director shall require the applicant for a building permit to employ an approved Review Consultant where the proposed construction is intended for buildings to which the public have access or for hazardous or for buildings of the categories listed at Section 34.
- (2) The cost of the Review Consultant shall be borne by the owner.
 - (3) The Director shall request monthly and final reports in a format decided the Director on any building or structure from Consultants and/or Review Consultants concerning the progress of the works. Failure to submit timely progress reports could lead to the Director not issuing a completion certificate.

Functions of Review Consultant

- 33.** (1) The Review Consultant is required to
- (a) Review or prepare and certify the design, drawing, specification and calculations for building or building work to determine whether they conform to the requirement of the Barbados Building Standard Code.
 - (b) Provide advice to the Director and the owner concerning technical problems if any, to be solved in the development of the project.
 - (c) Submit progress reports and as built drawings to the Director during the construction of the building work.
 - (d) To provide advice to the owner and the Director during the execution of the building works to ensure that the works are being executed in accordance with this Act and the Regulations.

- (e) Submit a Certificate of Compliance to the Director at the completion of the construction work.

33. ((2) The Director may withhold the issuance of a completion certificate if the Review Consultant fails to provide the documents mentioned at (c).

Projects for Employment of Review Consultant

34. The Review Consultant shall be employed for the following projects:

- (a) Buildings or structures (or part thereof) of unusual design or method of construction.
- (b) Foundations and structural engineering work for installation of equipment such as elevators, power plants and water sewerage treatment plants.
- (c) Public buildings and other buildings in the following Occupancy Groups defined in Part I of the Barbados National Building Standard/Code at Schedule 1:

- (i) Assembly buildings
- (ii) Business buildings
- (iii) Factory and Industrial buildings
- (iv) High Hazard buildings
- (v) Institutional buildings
- (vi) Hotels, Motels and Condominiums
- (vii) Storage buildings.

(2) The Director may for certain other projects impose the condition requiring the use of a Review Consultant as follows:

- (a) Major foundations and/or pile driving.
- (b) Major site works.
- (c) drainage and waste disposal works for buildings.
- (d) for houses, buildings or parts thereof that are of unusual and/or complex design, method of construction or building materials that may require structural or other engineering advice but no engineer is indicated on the application.
- (e) for buildings or parts thereof of the types described under 34 that require engineering architectural inputs but none is indicated on the application.
- (f) to assist and review the work of the engineering and architects consultant proposed on the application for buildings or parts of buildings if, in the opinion of the Director, the engineering consultant proposed will need expert advice concerning the buildings under 34 or any other buildings.

34. (3) The Director may request the Review Consultant to carry out audits of the design and construction of selected buildings to determine whether the design and/or construction complies with the requirements of the Code.

34. (3) (a) The Consultant engaged by the Authority to carry out this task shall be paid by the Authority.

Qualifications of Review Consultant

35. (1) The Review Consultant shall be an experienced and professionally qualified engineer or architect of the relevant discipline for developments listed in **section 32**.

(a) He/She shall be registered as a building practitioner in the relevant category of building practitioners or have the qualifications and experience to permit him/her to so registered.

(b) The Director shall assess the qualifications and experience of the person proposed by the owner as a Review Consultant and the terms of reference for his/her engagement of the person as the Review Consultant for the particular application.

(2) The Review Consultant shall be an independent consulting engineer or architect and shall not have been engaged in any capacity in the development for which he is being engaged as a Review Consultant, and shall have no ties to the applicant, builder or owner which may affect his performance on the project.

PART V

BUILDING STANDARDS

Building Regulations – General Power

36. (1) Regulations made under **section 114** may prescribe standards and requirements for buildings and the carrying out of building works.

(2) Standards prescribe by the Regulations may be expressed in terms of performance, prescription or function or as types of material, methods of construction, or in such other terms as the Minister thinks fit.

Codes, etc.

37. (1) The Regulations may incorporate by reference, either wholly or in part and with or without modification, any standards, codes, rules, regulations, specifications or methods, as are in force at a particular time, as are prescribed or published by an authority or body, whether or not it is a Barbadian authority or body.

(2) The Regulations may provide for the certification of building products, construction methods, designs, components and systems accredited by a person or body.

Definitions

38. For the purposes of sections 36 and 37

‘building product’ means any product used in the building process or building work.

‘construction method’ means any construction method or technique used in the building process or building work.

‘design component or system’ means any design component or system used in the building process or building work.

PART VI

BUILDING PERMITS

Division 1 - Building Permits Required

39. (1) A person shall not carry out building work unless a building permit or an extended building permit in respect of the work has been granted and is in force under this Act and the work is carried out in accordance with the permit or the extended building permit.

(2) Any person who fails to comply with subsection (1) is guilty of an offence and is liable on summary conviction

(a) in the case of an individual, to a fine of \$20 000; or

(b) in the case of a body corporate, to a fine of \$50 000.

Division 2 - Applications for Building Permits

40. An application for a building permit shall be made to the Authority by the owner or the owner's agent of the building or the land in or on which the building work is to be carried out.

Further Information may be Requested

41. (1) Before the Authority grants or refuses to grant a building permit it may require the applicant to provide within one month additional information or documents or to amend the application.

(2) Where additional information or a document [or an amended application,] required under subsection (1) is not supplied within the required time, the Authority may treat the application as having lapsed.

Division 3 – Approvals

Compliance with Act and Regulations

42. (1) The Authority shall not grant a building permit unless

(a) the application has been made in the prescribed form

(b) the building work and the building permit shall comply with this Act and Regulations;

(2) The Authority shall not, in granting a building permit, impose on the applicant lesser standards or requirements than those prescribed, unless permitted to do so under this Act.

(3) Where under any provisions of this Act or its regulations the Authority is required to carry out operations for the construction or the demolition of any building permit shall be deemed to have been granted in respect of that construction or demolition.

Historic Buildings

43. (1) Notwithstanding section 42 the Authority may grant a building permit for the carrying out of building work that does not comply with the Regulations if the building work is to be carried out on, or in connection with, a building designated as historic by

the Barbados National Trust and then only subject to such conditions, restrictions or protections, as are imposed by the Authority after consultation with the Barbados National Trust.

(2) to facilitate the building permit granted under subsection (1) the Barbados National Trust shall be required to maintain a register of all historic buildings with the Authority.

PART VII

COMMENCEMENT, INSPECTION AND CERTIFICATION OF

BUILDING WORK

Building Works to Be Insured

44. (1) A person shall not commence or continue to carry out building work on a building unless

(a) the person holds a type or class of approved policy of insurance against natural disaster, fire, explosion floods and public liability.

(b) the building work, when completed, is covered by an approved policy of insurance against natural disasters, flood, explosion, lightning thunderbolt subterranean fire and smoke..

(2) A person who fails to comply with subsection (1) is guilty of an offence and is liable on summary conviction

(a) in the case of an individual, to a fine of \$10 000; or

(b) in the case of a body corporate, to a fine of \$50 000.

Notification during Building Work

45. (1) Prior to the commencement of building work, the owner or owner's agent who was granted the building permit for the work shall in writing, notify the Authority of the commencement date of that building work and the Director may require the person who is to undertake or be in charge of carrying out the building work the inspection stages, if any, of the building work on completion of which the person shall notify the Director.

45. (2) A person who is required under subsection (1) to notify the Director shall not carry out any building work after the completion of an inspection stage until

(a) the Director, has advised the person that the building work may proceed; or

(b) the building work, completed to that inspection stage, has been inspected in accordance with **section 46**.

(2) A person who fails to comply with the requirements of this section is guilty of an offence and is liable on summary conviction to a fine of \$5 000.

Inspections

46. The Director may, at any reasonable time, on being notified under **Section 45** that an inspection stage has been completed inspect the building work concerned.

Directions as to Work

47. (1) The Director may after inspecting building work, direct the person carrying out the work or in charge of carrying out the work to ensure that the building work complies with the relevant building permit, this Act or the Regulations, as the case may be.

(2) Where the person referred to in subsection (1) fails to comply with a direction under this section, the Director may cause a building notice to be served under Part X or may take any other action permitted by this Act or the Regulations.

PART VIII

COMPLETION CERTIFICATE

Division 1

Completion Certificate To Be Obtained

48. A person shall not occupy a building in or on which building work is being carried out unless a completion certificate or an approval to occupy on a temporary basis has been granted, or this Act or the Regulations provide that a completion certificate is not required in respect of that building.

Buildings Not To Be Used For Public Assembly Without Certificate

49. A person shall not promote or conduct a public assembly in a place, building or temporary structure unless a completion certificate or a temporary completion certificate has been granted to permit its use for that purpose.

Application To Be Made By Owner

50. (1) An application for a completion certificate shall be in writing on the appropriate form and made to the Director by the owner of a building or by the owner's agent.

(2) The owner of a building or his agent may apply for a completion certificate

(a) after carrying out building work; or

(b) where a variation of an existing completion certificate is sought.

(3) An application for a temporary completion certificate shall specify the period for which it is required and give a description of the nature and extent of the building works.

Temporary Occupation

51. (1) Notwithstanding anything in the Act or the Regulation a person may with the approval of the Director occupy on a temporary basis a building for which a building permit has not or could not be granted.

(2) an application for an approval to occupy a building in a temporary basis may be made to the Director by the owner of the building or by the owner's agent.

(3) an approval to occupy a building on a temporary basis shall specify the period for which occupancy is permitted.

Declaration by Builder

52. (1) The Director shall not grant a completion certification unless the application for the certificate is accompanied by a declaration in an approved form stating that the building work to which it related has been carried out in accordance with this Act and the regulations and that the building concerned is suitable for occupation.

52 (2) The Director may revoke or suspend a completion certificate or a temporary completion if

- (a) the permit or certificate was issued in error;
- (b) incorrect or false information was submitted on either the building permit completion or temporary completion certificate;
- (c) when a building structure or building service equipment is being used contrary to the provisions of the Act or Regulations;
- (d) the prescribed fee is not paid.

(3) A person who fails to comply with the requirements of this Part is guilty of an offence and is liable on summary conviction.

(a) in the case of an individual, to a fine of \$10 000.00 or

(b) in the case of a body corporate, to a fine of \$50 000.00.

PART IX

ENFORCEMENT OF SAFETY AND BUILDINGS STANDARDS

Emergency orders

53. (1) Where in the opinion of the Director it is necessary to issue an emergency order as a result of a threat to life arising out of

- (a) the condition or use of; or
- (b) the conduct or proposed conduct of a public assembly in a building, place or temporary structure, the Director may, in writing, issue an emergency order.

(2) An emergency order made under subsection (1) may require the owner of a building, place or temporary structure, or the owner's agent

- (a) to evacuate the building, place or temporary structure or a specified part of it;
- (b) not to conduct or promote or allow the conduct or promotion of a public assembly on or in the building, place or temporary structure or a specified part of it, or to immediately cease to conduct or promote such a public assembly;
- (c) to stop work or to carry out building work or other work; and
- (d) to comply with such directions as are specified in the order.

(3) The Director shall have the Authority to disconnect utilities in cases of emergency to eliminate hazard to life or property.

(a) The Director shall whenever possible notify the serving utility, the owner and occupant of the building structure or building service equipment of the decision to disconnect prior to taking such action, and shall notify such serving utility, owners and occupant of the building, structure

(4) An emergency order made under subsection (1) may also prohibit the occupation of a building, place or temporary structure.

Work may be carried out by Director

54. (1) If an owner fails to carry out work as required by an emergency order, the Director may carry out the work.

(2) The costs and expenses incurred by the Director in carrying out work referred to in subsection (1) are debts due and payable by the owner to the Crown.

Police Assistance

55. The Director or other person exercising the functions of the Director under this Division may request the assistance of a member of the Police Force, and a member of the Police Force may assist in evacuating a building, place or temporary structure in accordance with an emergency order.

Completion of Work

56. (1) On completion of work required by an emergency order the owner or the owner's agent shall notify the Director in writing and include with the notification such information relating to the building, place or temporary structure as it required by the Director.

(2) The Director shall inspect the completed work and report to the owner or the owner's agent that the order has been complied with and cancel the order, or refuse to make such a report and require compliance with the order.

Appeals

57. (1) An owner of a building, place or temporary structure affected by an emergency order or an owner's agent may appeal to the Appeals Board in accordance with Part XI, against the order or against a refusal of the Director to make a report that an emergency order has been complied with.

(2) On an appeal under this section, the Appeals Board may confirm, amend or cancel the emergency order.

Duration of Order

58. (1) Subject to subsection (2), an emergency order remains in force until it is cancelled by the Director or the Appeals Board.

(2) The Director shall not cancel an emergency order in respect of which an appeal under **section 54** is not finally disposed of.

Contravention of Emergency Order

59. A person who contravenes or fails to comply with an emergency order is guilty of an offence and is liable on summary conviction

- (a) in the case of an individual, to a fine of \$10 000 or to imprisonment for a term of 6 months; or
- (b) in the case of a body corporate, to a fine of \$50 000.

(2) It is a defence to a prosecution for an offence against this section if the defendant proves that he was not aware of the fact that a public assembly in respect of which the offence arose was the subject of an order under this Division.

Division 2 – Building Notices and Orders

Fire Hazards

60. For the purposes of this Division, a building, place or temporary structure is or contains a fire hazard if it has insufficient

- (a) means of escape in the event of fire for the persons occupying or using it;
- (b) protection to delay the spread of fire or smoke or to facilitate escape from it;
- (c) devices, appliances and equipment for the detection and extinguishing of fire; or
- (d) means of preventing fire or the spreading of fire.
- (e) if the building fails to meet the requirements for fire safety provision set out in the building code.

Building Notices

61. The Director may issue a building notice in the prescribed form on an owner of a building, place or temporary structure, or on the owner's agent, if the Director is of the opinion that the building work or change of use

- (a) has been carried out on the building, place or temporary structure without a building permit required by this Act or in contravention of a building permit or this Act or the Regulations;
- (b) contravenes this Act, the Regulations or the completion certificate granted in relation to it;
- (c) is unfit for use or occupation; or
- (d) is a danger to its users or the users of adjoining properties or highway.

Contents of Building Notices

62. The building notice referred to in **section 61** may require the owner of a building, place or temporary structure, or the owner's agent, to show cause within the period specified in the notice, why occupation of the building, place or temporary structure or its use for a public assembly, should not be prohibited, or why the owner or agent

- (a) should not evacuate the building, place or temporary structure;
- (b) should be allowed to conduct or promote, or allow the conduct or promotion, of a public assembly or should not immediately cease to conduct or promote a public assembly on or in the building, place or temporary structure;
- (c) should not operate or carry out building work or other work on or in the building, place or temporary structure; and
- (d) should not comply with such directions as are specified in the notice.

Representations by Owner

63. An owner or the owner's agent of a building, place or temporary structure in respect of which a building notice is issued, may, in the manner and within the time specified in the notice, make representations to the Director about the matters contained in the notice.

Building Orders

64. (1) The Director may make a building order in the prescribed form, after the time specified in the notice under **section 63** for making representations under Section 61 has expired.

(2) Before making a building order, the Director shall consider the representations, if any, made in **section 63**.

(3) The Director may make a building order requiring building work or other work to be carried out without first serving a building notice if the Director is of the opinion that the building work required to be carried out is of a minor nature.

Contents of Building Orders

65. A building order made under **section 64** may prohibit the occupation of a building, place or temporary structure or its use for public assembly, or require its owner or the owner's agent

- (a) to evacuate the building, place or temporary structure or a specified part of it;
- (b) to stop or to carry out building work or other work on or in it; and
- (c) to comply with such other directions as are specified in the order.

Building Orders to stop Building Work

66. Where, in the opinion of the Director, building work contravenes this Act or the Regulations and is a danger to the public or affects the support of an adjoining property,

the Director may make a building order requiring the owner or other person carrying out the work to stop work, notwithstanding that a building notice has not been served.

(2) The Director shall serve a copy of the order on, the owner, owner's agent, or a person who reasonably appears to be in charge of a site on which the building work is being carried out.

Fire Upgrading Reports

67. (1) Where the Director is of the opinion that a building, place or temporary structure is or may contain a fire hazard, the Director may inspect the building, place or temporary structure and with the assistance of the Barbados Fire Service, prepare a fire upgrading report as to the work necessary to overcome the hazard.

(2) A fire upgrading report shall, if a fire hazard is found to exist, contain a program for work to remedy the hazard and any other prescribed matters.

(3) The Director shall serve a copy of a fire upgrading report on the owner of the building, place or temporary structure or the owner's agent.

Representations to Director

68. An owner of a building, place or temporary structure in respect of which a fire upgrading report is issued, or the owner's agent, may, in the manner and within the time specified in the report, make representations to the Director about the matters contained in the report Building orders relating to Fire Hazards

69. The Director may make a building order in relation to a building, place or temporary structure in respect of which a fire upgrading report is issued, after the time allowed under **section 67** for making representation has expired.

(2) A building order made under subsection (1) shall direct the owner of the building, place or temporary structure concerned, or the owner's agent, to carry out a program of work as directed and may contain any other prescribed matters.

Failure to comply with Order of the Director

70. (1) Where an owner or an owner's agent fails to comply with a building order made by the Director, the Director may carry out the work

(2) Where the work is carried out by the Director pursuant to paragraph (1) the costs and expenses incurred by the Director are debts due and payable by the owner to the Crown.

(3) Where an owner or an owner's agent cannot be ascertained by debts due and payable as a result of work carried out by the Director becomes a lien on the property.

Police Assistance

71. The Director or a person performing the functions of the Director may request the assistance of a member of the Police Force in removing persons from a building, place or temporary structure in or on which the Director or person, or an agent of the Director or person, is carrying out or is about to carry out work in accordance with a building order.

Completion of Work

- 72.** (1) On the completion of work required to be carried out under a building order, the owner, or the owner's agent, shall give written notice of the completion to the Director.
- (2) The Director shall after receipt of the notification under subsection (1) shall, within 28 days after the receipt of the notice; inspect the completed work and report to the owner or the owner's agent that the order has been complied with and cancel the order, or refuse to make such a report and, in writing, require compliance with the order.

Appeals

- 73.** (1) An owner or the owner's agent of a building, place or temporary structure affected by a building order, may, in accordance with Part X, not later than 28 days after the order is served on him, appeal to the Appeals Board against the order.
- (2) An owner, or an owner's agent may, in accordance with Part XI, within 28 days after being advised of a refusal under **section 71** make a report and appeal to the Appeals Board against the refusal.
- (3) On an appeal being made under this section, the Appeals Board may confirm, amend or cancel the building order.
- (4) A building order shall not be enforced until the appeal against the order is finally disposed of.

Amendment or Cancellation of certain Building Orders

- 74.** (1) An owner, or an owner's agent, required to comply with a building order made after the issue of a fire upgrading report may, if there is a change in circumstances after the original fire upgrading report is made, request the Director to amend or cancel the building order.
- (2) On a request being made under subsection (1), the Director may
- (a) refuse to amend or cancel the building order;
 - (b) issue an amended fire upgrading report; or
 - (c) cancel the fire grading report
- (3) An owner or the owner's agent may, in accordance with Part XI, not later than 28 days after the decision of the Director under subsection (2), appeal against the decision.

Onus of Proof on Appeals

- 75.** In an appeal to the Appeals Board under this Part in relation to a building order arising out of a fire upgrading notice, the onus of proving a fact on which the building order was issued is on the Director.

Duration of Proof on Appeals

- 76.** A building order remains in force until it has been complied with or is cancelled by the Director, or the Appeals Board.

Contravention of Building Order

77. A person who contravenes or fails to comply with a building order is guilty of an offence and is liable on summary conviction

- (a) in the case of an individual, a fine of \$10,000; or
- (b) in the case of a body corporate, a fine of \$50,000.

Register of Orders

78. The Director shall keep, and make available for inspection at his office during normal business hours on payment of the prescribed fee a register of all building orders made under this Part.

PART X – BUILDING APPEALS

Division 1 - Appeals

Who may Appeal

79. (1) An appeal referred to in **section 15 (1) (a)** may be made by a person or that person's agent other than a reporting authority who is involved in the dispute or by the Director.

(2) An appeal under subsection (1) shall be made in accordance with this Part.

Modification of Application of Building Regulations

80. (1) The Appeals Board may by determination, on application by an owner of land (including a public authority), an owner's agent or the Director, modify the application of the Regulations to land, a building or building work or determine that a provision of the Regulations shall not apply to the land, building or building work or shall apply subject to such conditions as it specifies and, on it so doing, the Regulations shall not apply, or shall apply subject to those conditions, accordingly.

(2) The Appeals Board may, before making a determination under subsection (1), require a report from a reporting authority on the subject of the application, and may not make a determination unless it is satisfied that it is not detrimental to the public interest to do so.

Sitting of Appeals Board

81. (1) The Appeals Board shall, for the purpose of performing its functions in relation to a particular matter, consist of such member or members as the Chairman nominates one of whom shall be nominated to preside but shall not be composed of, or include, the Director or a delegate of the Director if the Director is the appellant or if the subject matter of the appeal involves an act or decision of the Director or a delegate of the Director.

(2) More than one sitting of the Appeals Board may be held at any one time.

Constitution of Appeals Board in a matter

82. (1) Subject to subsection (2), the Appeals Board, while hearing and determining a particular matter, shall be constituted by the same members.

(2) Where a member of the Appeals Board is not available after the Appeals Board has commenced to hear a matter, the Chairman may, on the application of a party, nominate a new member to fill the vacancy to enable the hearing to continue.

(3) Where a new member is nominated under subsection (2)

(a) the new member shall treat any evidence given, document produced or thing done in the course of earlier proceedings in the same manner and in all respects as if it had been given, produced or done in the course of the proceedings by the Appeals Board as constituted with the new member;

(b) an interim award or order made in the course of the earlier proceedings shall be deemed to have been made as though made by the Appeals Board as constituted with the new member; and

(c) the Appeals Board as constituted with the new member may adopt and act on a determination of a matter made in the course of the earlier proceedings without the new member applying his own judgment to the matter.

(4) The Regulations may make provision for any other matter in relation to the hearing.

Authentication of Documents

83. A document requiring authentication by the Appeals Board is sufficiently authenticated without the seal of the Board if it is signed by the Chairman or the Deputy Chairman.

Division 2 - Appeals etc. and Procedure

Procedure Generally

84. (1) Except to the extent that they are prescribed, the Appeals Board shall determine its own procedures.

(2) Hearings of the Appeals Board shall be conducted with as little formality and technicality, and with as much expedition, as the requirements of this Act and the Regulations, and the proper consideration of the matters before the Board, permit.

(3) The Appeals Board is not bound by the rules of evidence but may inform itself of any matter in such manner as it thinks fit.

Appeal to be Reheard

85. An appeal, a referral or an application to the Appeals Board shall be dealt with as a fresh hearing, and fresh evidence or fresh information may be given.

Decisions of Appeal Board

86. (1) In addition to any other power conferred on the Appeals Board by or under this Act in relation to an appeal, referral or application, the Board may make any decision or

take any action that the person making the original decision could have made or taken in relation to the matter.

(2) In determining an appeal, referral or application, the Appeals Board is not bound by a previous determination of the Board.

Decision of Appeals board to be Final

87. The decision of the Appeals Board in an appeal referral or application is final and shall have effect accordingly.

Form of Appeals and Applications

88. (1) An appeal to the Appeals Board shall contain details of the grounds of the appeal and such other particulars, if any, as are prescribed and be accompanied by the prescribed fee.

(2) An application or referral to the Appeals Board shall contain details of the application or referral and such other particulars, if any, as are prescribed and be accompanied by the prescribed fee.

Decisions

89. (1) A determination by the Appeals Board shall be in writing, shall be signed by two members of the Board involved in making the determination and shall be noted in the register by the Registrar.

(2) The Appeals Board shall, if requested to do so by a party to an appeal, referral or application, give a written statement of its reasons for the determination to the party.

(3) A person may, on payment of the prescribed fee to the Registrar, inspect a written decision of the Board.

Evidence of Determinations

90. The production in proceedings of a document purporting to be a copy of a determination made by the Appeals Board under this Act and to be signed by the Registrar, is evidence of the due making and existence of the determination.

Enforcement of Determinations

91. Every determination made by the Appeals Board may, by leave of the High Court, be enforced as if it were a judgment or order of the court to the same effect duly made by the court.

Adjournments

92. The Appeals Board may, from time to time, adjourn a hearing to such time, date and place, and for such reasons, as it thinks fit.

Hearings to be Open

93. The hearings of the Appeals Board shall be open to the public, unless otherwise directed by the Board.

Rights of Representation

94. A party to a hearing before the Appeals Board is with the consent of the Board, entitled to be represented by another person.

Attendance of Witnesses

95. (1) The Appeals Board may, by notice in writing served on a person, require that person to attend a hearing of the Board for the purpose of giving evidence or to produce to the Board a document that is relevant to the hearing at a time, date and place specified in the notice.

(2) The Board may keep a document produced to it under this section for as long as it considers necessary for the purpose of completing the hearing.

(3) A person who without just cause fails to comply with a requirement under this section to attend and give evidence at a hearing or to produce a document, is guilty of an offence and is liable on summary conviction to a fine of \$1 000.

Oaths

96. (1) The Appeals Board may require a person who attends a hearing to be sworn for the purpose of giving evidence on oath.

(2) The Appeals Board may administer an oath to a person who attends a hearing for the purpose of giving evidence.

Costs

97. Each party to a hearing before the Appeals Board shall bear their own costs of the hearing, unless the Board otherwise determines.

PART XI

GENERAL ENFORCEMENT PROVISIONS

Proceedings for Offences

98. (1) Proceedings for an offence against this Act shall not be commenced without the consent of the Director.

(2) A document purporting to be consent for the purposes of subsection (1) and to be signed by the Director is evidence of that consent.

(3) A complaint for an offence against this Act or the Regulations shall be made within 2 years after the date when the matter of the complaint arose.

Offences by Corporations

99. (1) Where a corporation contravenes a provision of this Act or the Regulations, each person being a director of the corporation or a person concerned in the management of the corporation shall be taken to have contravened the same provision unless the person proves that he had no knowledge of the commission of the offence and could not, by the exercise of due diligence, have prevented the commission of the offence.

(2) Nothing in this section affects the liability imposed on a corporation for an offence committed by the corporation against this Act or the Regulations.

(3) Without limiting any other law or practice relating to the admissibility of evidence, evidence that an officer, employee or agent of a corporation while acting in that capacity had at a particular time, a particular intention, is evidence that the corporation had that intention at that time.

Additional Orders that may be made by the Court

100. (1) The Director may bring proceedings in a prescribed Court for an order under this section in the event of

(a) a breach, a threatened or apprehended breach, of this Act or the Regulations; or

(b) a notice or order issued under this Act.

(2) The court may, if it is satisfied that a breach, or a threatened or threatened or apprehended breach, has been or will be committed or is likely to be committed, make

(a) an order to restrain the breach or other conduct by the person by whom the breach is committed or by whom the threatened or apprehended breach is likely to be committed;

(b) an order requiring building work to be carried out;

(c) an order requiring the payment of money into court in respect of building work carried out by, or to be carried out by, the Director; and

(d) any necessary ancillary orders.

(3) A person may make an application for an order under this section during proceedings for an offence against this Act or the Regulations and an order may be made instead of or in addition to a penalty imposed in those or any other proceedings.

(4) A person shall not make an application under this section in respect of a notice, order or other matter that is the subject of an appeal to the Appeals Board.

PART XII

LIABILITY

101. (1) Where any act is committed or omitted to be done by (a) the Director;

(b) the Practitioners Board or a member of the Practitioners Board;

(c) the Appeals Board or a member of the Appeals Board; or

(d) a person acting under the direction of the Director, the Practitioners Board or the Appeals Board that commission or omission shall not subject the Director, Practitioners Board, Appeals Board or person to any action, liability, claim or demand, if the matter or thing was done or omitted to be done in good faith for the purpose of performing a function or executing a power under this or any other Act, [or the performance or exercise, or intended performance or exercise, of the functions or powers of the member, Director, Board or person.]

(2) Where any act is committed or omitted to be done by

(a) the Director

(b) a person performing a function or exercising a power in relation to a public authority

under this Act in good faith or relying on a certificate of registration that commission or omission shall not subject the Director or person, to any action, liability, claim or demand.

(3) No action or other proceedings may be brought against the Director or an employee of the Authority with respect to information included in or omitted from a register maintained under this Act.

Application of Limitation of Liability Provisions

102. (1) **Sections 102, 103, 104 and 105** apply to an action of tort including an action for damages for breach of statutory duty for damages for economic loss and rectification costs resulting from defective construction of building work or other work carried out under this Act.

(2) Those sections do not affect a right to recover damages for death or personal injury resulting from defective construction.

Limitation on Liability of Persons Jointly and Severally Liable

103. (1) After determining an award of damage in an action, a court shall apportion the total amount of the damages between all persons who are found in the action to be jointly or severally liable for the damages, having regard to the extent of each person's responsibility for the damage.

(2) The liability for damages of a person found to be jointly or severally liable for damages in an action is limited to the amount apportioned to the person by the court.

Right to Contribution

104. (1) A person found to be jointly or severally liable for damages in an action shall not be required to contribute to the damages apportioned to any other person in the same action or to indemnify any such other person.

(2) A person found to be jointly or severally liable for damages in an action may recover a contribution from any other tortfeasor not a party to the action who is, or would if sued have been liable in respect of the same damage, whether as a joint tortfeasor or otherwise.

(3) A person is not entitled to recover a contribution under this section from a person entitled to be indemnified by the person in respect of the liability for which the contribution is sought.

Amounts of Contribution

105. (1) In proceedings for recovery of contribution under **section 98**, the amount of contribution recoverable from a person shall be that found by the court to be just and equitable having regard to the extent of the person's responsibility or the damage.

Relationship of Liability Provisions to Other Laws

106. Nothing in **sections 103, 104 or 105** affects the operation of a law that enables a person to take an action against a tortfeasor.

PART XIII

Miscellaneous

Application of Limitation on Taking Action

107. (1) **Section (108)** applies to an action for damages for economic loss and rectification costs resulting from defective construction of building work or other work carried out under this Act.

(2) The cause of action may be founded on contract or tort including a cause of action for damages for breach of a statutory duty or be a cause of action to recover money recoverable by virtue of this Act.

(3) **Section (107)** does not affect a right to recover damages for death or personal injury resulting from defective construction.

Limitation of Time When Action May Be Taken

108. (1) An Action is not maintainable by a plaintiff or person claiming on behalf of a plaintiff if it is brought after the end of a limitation period of 10 years after the date on which the cause of action first accrues.

(2) The cause of action accrues on the date of the issue of the completion certificate in respect of the work or, if a completion certificate is not issued, on the date of first occupation of the building concerned after completion of the work.

Access to Building and Land

109. (1) The Minister may appoint persons or classes of persons to be authorised officers.

(2) Subject to this act, a member of the Police Force or an authorised officer may, for the purpose of performing a function or exercising a power of the member of the Police Force or exercising the powers of an authorised officer enter any land, building, place or temporary structure if the member of the Police Force or authorised officer has reasonable grounds to believe that it is necessary to do so for that purpose.

Access to Residential Premises

110. (1) A person shall not enter a part of a building used for residential purposes without

(a) the consent of the occupier; or

(b) a search warrant.

(2) Where a member of the Police Force or authorised officer makes a complaint on oath to a Magistrate to the effect that the member or authorised officer has reason to suspect, and believe that this Act or the Regulations have been or are being contravened in residential premises, a Magistrate may, if satisfied that the belief is well founded, authorise under the authority of a search warrant a member of the Police Force or an authorised officer to enter the premises to search for evidence in relation to the contravention in or on the premises.

(3) The *Police Act*, with the necessary modifications, applies to and in relation to a search warrant issued under subsection (2).

Additional Powers of Authorised Officer

111. In addition to his powers under this Part, an authorised officer may

- (a) demand that the owner or occupier of any land, building, place or temporary structure produce records relating to the building or any building work;
- (b) search for, inspect, take extracts from and make copies of such records; and
- (c) make any inquiry that the authorised officer considers necessary relating to any building work, land, building, place or temporary structure and take samples of materials for the purposes of an inquiry.

Access where Safety of Public at Risk

112. An authorised officer may enter any premises at any time if the safety of the public or the occupants is at risk or the premises are affected by an emergency order under Part X.

Offences

113. (1) A person shall not

- (a) fail or refuse to produce records on being required to do so by an authorised officer in pursuance of **section 111**;
- (b) make a false or misleading statement in answer to an inquiry in pursuance of that section; or
- (c) assault, delay, obstruct, hinder or impede an authorised officer in the performance of a function or exercise of a power under this Act.

(2) Where a person fails to comply with the requirements of subsection (1), that person is guilty of an offence and liable on summary conviction to a fine of \$5 000.

Evidentiary Provisions

114. (1) In proceedings before a court, the court shall take judicial notice, order or direction purporting to have been given under this Act by the Minister, the Appeals Board or the Director.

(2) In proceedings before a court, a copy of an adopted code or standard, or a code or standard referred to in an adopted code or standard, or any part thereof purporting to be certified by the Director or an officer authorised for the purpose by the Director, is admissible in evidence.

Regulations

115. The Minister may make Regulations prescribing standards for;

1. the design and siting of buildings including site preparation;
2. fire prevention, fire fighting equipment and precautions including the resistance of the structure to the outbreak and spread of fire, the protection of the occupants and means of escape in the event of fire and the provisions of facilities to assist fire fighting;
3. the classification of buildings;
4. *selection and use of* building construction methods, designs, components, systems and workmanship;
5. reuse of building materials;
6. measures effecting emission of smoke, fumes, gases or other noxious fumes;
7. form and contents of plans and specifications for buildings, building work, building permits, notices and orders;
8. structural strength and stability of buildings;
9. prevention of flooding of buildings;
10. moisture resistance and decay of buildings;
11. the heating, cooling, air conditioning, ventilation and lighting of buildings;
12. the manner of alteration and demolition of and additions to buildings;
13. the occupation of buildings and any change of classification, use and occupation of buildings;
14. prevention of danger and obstruction in and around buildings;
15. security and safety of building;
16. suitability of buildings for disabled person;
17. relaxation of building regulations;
18. durability;
19. resistant to infestation
20. drainage and water supply and waste and sewerage disposal;
21. use of public space for building work;
22. noise resistant construction of buildings;
23. the environmental and energy efficiency of buildings;

24. safety of utility services located in, (including electronic communications) or related to, buildings;
25. access to and egress from buildings;
26. the management and use of buildings, places and temporary structures used or proposed to be used for the purposes of public assembly;
27. the issue, duration, variation, revocation and suspension of completion certificate;
28. the imposition, variation and rescission of conditions, of completion certificate and building permits, orders and notices;
29. the manner and form of, and the fees payable in connection with completion certificate and building permit;
30. keeping of registers of completion certificates;
31. fees payable for applications, referrals and appeals, and for other services provided and work done by the Director and other persons and bodies, under this Act;
32. procedure for making appeals under the Act or the Regulations;
33. requiring public authorities to comply with any or all of the technical requirements of the Regulations.
34. provision of copies of reports by reporting authorities and reports by such authorities;
35. requiring, licensing and regulating the erection maintenance and use of hoardings and fences on public places for the protection of the public during building work;
36. regulation of the approval, construction and use of temporary structures;
37. exemption of persons or classes of persons, or buildings or classes of buildings, or building work or classes of building work, from any or all of the provisions of this Act or the Regulations;
38. insurance requirements for persons carrying out building work, and building practitioners;
39. procedure for applications, referrals and appeals to the Appeals Board;
40. the seal of the Appeals Board;
41. inspection of registers kept by the Director;
42. service of documents under this Act;
43. fees to be paid for the performance of a function under the Act by the Director including amounts for the recovery of costs incurred in performing the function;
44. the use of emergency lighting and illuminated exit signs in buildings;
45. matters that relate to the Building Practitioner Board and Appeals Board hearings;
46. matters that are required or permitted by this Act to be prescribed;

47. matters that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Act to Bind the Crown

116. (1) Except as provided in subsections (2) and (3) this Act shall bind the Crown.

(2) This Act does not apply to any Crown building work where the Minister with responsibility for Defence and Security certifies that the building or the building work is necessary for reasons of national security.

(3) The Crown should not be liable to be prosecuted for an offence against this Act, but in any case where it is alleged that the Crown has contravened any provision of this Act and that contravention constitutes an offence, the party making the allegation may apply to the High Court for a declaration that the Crown has contravened that provision and if that Court is satisfied beyond a reasonable doubt that the Crown has contravened that provision, it may make a declaration accordingly.

Commencement

117. This Act shall come into operation on a date to be fixed by proclamation.

SCHEDULE

Sections 6, 10 and 14

COMPOSITION AND PROCEDURES OF BUILDING AUTHORITY,

PRACTITIONERS BOARD AND APPEALS BOARD

1. (1) A member shall hold office until the expiration of such period, not exceeding 3 years, as is specified in the instrument of appointment, but is eligible for re-appointment.

(2) Where a period of appointment is not specified in the instrument of appointment of a member, the member holds office for 3 years.

2. (1) Where a member is or is expected to be absent from duty or from Barbados the Minister may appoint a person (with, in the case of the Practitioners Board, the same qualification for appointment as the absent member) to act as the member during the absence.

(2) The Minister may, at any time, terminate an appointment made under paragraph (1).

(3) The validity of a decision of the Authority or Board shall not be questioned in any proceedings on a ground arising from the fact that the occasion for the appointment of a person under subparagraph (1) had not arisen or that an appointment under subparagraph (1) had ceased to have effect.

3. (1) In the absence of the Chairman from duty, or when the Chairman is unable to perform his functions, the Deputy Chairman may exercise the powers and shall perform the functions of the Chairman under this Act.

(2) Subject to subparagraph (3), a member elected or appointed as the Chairman or Deputy Chairman, while the person remains a member shall hold office for a period not exceeding 3 years and is eligible for re-election or reappointment.

(3) The Authority or Board may at any time, by resolution, elect a new Chairman or Deputy Chairman and, on the passing of such a resolution, the person who held the office immediately before the resolution was passed ceases to hold the office.

4. A member may resign office by issuing a notice in writing signed by that member and given to the Minister.

5. (1) The Minister may terminate the appointment of a member for inability, inefficiency, misbehaviour of physical or mental incapacity.

(2) If a member

(a) is absent, except by leave of the Authority or Board, from 3 consecutive meetings of the Authority or Board; or

(b) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit, the Minister shall terminate the appointment of that member.

6. (1) The Chairman shall call such meetings of the Authority or Board as are necessary for the exercise of its powers and the performance of its functions.

(2) The Minister may, at any time, direct the Chairman to call a meeting of the Authority or Board and the Chairman shall comply with the direction.

(3) In the case of the Practitioners Board and the Building Authority, 3 members shall constitute a quorum.

(4) The Chairman shall preside at all meetings of the Authority or Board at which he is present and, in the absence of the Chairman from a meeting, the Deputy Chairman shall preside and, if both the Chairman and Deputy Chairman are absent, the members present may appoint one of their number to preside at the meeting.

(5) Any questions arising shall be determined by a majority of the votes of the members present and voting and, in the event of an equality of votes, the Chairman or other person presiding at the meeting shall have, in addition to his deliberative vote, a casting vote.

(6) The Authority or Board shall determine the procedure to be followed at or in connection with the meeting.

(7) If the Authority or Board so determines, a member may participate in, and form part of a quorum at, a meeting of the Board by means of

(a) telephone;

(b) closed circuit television; or

(c) a prescribed method of communication.

(8) A member who participates in a meeting as provided by subparagraph (5) shall be taken to be present at the meeting if the member is able to hear and be heard by each member

taken part in the meeting, including for the purposes of being counted towards a quorum at the meeting.

(9) The Authority or Board shall cause records of its meetings to be kept.

7. Subject to this Act, the Chairman, a member of the Authority or Board shall not disclose information obtained in the course of his duties as Chairman, member or registrar, unless the disclosure is made in the course of those duties.

8. No action of proceeding, civil or criminal, shall lie against the Chairman, a member of the Authority or Board for or in respect of an act or thing done or omitted to be done in good faith by the person in his or her capacity as Chairman or member.

