

# THE LAND DEVELOPMENT AND UTILIZATION ACT

## PART I Preliminary

This Act may be cited as the land Development and Utilization Act.

Interpretation 2.— (1) In this Act— "agricultural land" means land—

- (a) used for agriculture; or
- (b) designated pursuant to section 3 as agricultural land;

"agricultural unit" means land—

- (a) comprising or including one or more parcels of agricultural land (whether contiguous or not) of not less than the prescribed acreage in the aggregate; and
- (b) having the same person as occupier within the meaning of this Act, which is either being farmed as a unit or as respects which the Commission directs that it should be so farmed in the interest; of full and efficient production;

31/1976 S. 2. (a).

31/1976 S. 2. (b)

31/1976 S. 2. (c)

"agriculture" includes horticulture, fruit growing, seed growing, forestry, dairy farming and live-stock breeding and keeping, the use of land as grazing land, pasture land, market gardens and nursery grounds;

"chairman" means the chairman of the Commission or any person for the time being performing the functions of the chairman; "Commission" means the Land Development and Utilization Commission established under section 12;

"farm" means to carry on in relation to land any agricultural activity with a view to the proper development and utilization thereof;

"idle land" means land in respect of which an order under section 5 is in force;

"idle land order" means an order under section 5 declaring land to be idle land for the purposes of this Act;

"occupier", in relation to land, means the person having for the time being the right to farm the land and for the purposes of Part VI, includes any person whose interest in the land entitles him to develop or use it;

"owner", in relation to land, means the person in whom for the time being is vested the legal estate in fee simple;

"prescribed acreage", means, subject to section 23, 100 acres or such other acreage, not less than 50 acres, as may be prescribed;

"relevant circumstances", in relation to land, includes all circumstances affecting the farming or, for the purposes of Part VI; the use or development of the land other than the personal circumstances of the occupier thereof.

(2) For the purposes of this Act the Commission shall keep, in such form as it may determine, a register of owners of land and other persons who are trustees of, or interested under, settlements as mentioned in subsection (3) of section 8, being in any case persons who in the prescribed manner apply to be entered

on the register.

(3) References in this Act to the use of land for agriculture include, in relation to land forming part of an agricultural unit, references to any use of the land in connection with the farming of the unit.

Designation of agricultural land 3.— (1) The Commission with the approval of the Minister may from time to time by order designate as agricultural land any land which, having regard to its situation, character and other relevant circumstances, the Commission considers ought to be brought into use for agriculture, so, however, that no order shall be made under this section in relation to—

(a) land the use of which for some development purpose other than agriculture has been approved under the Town and Country Planning Act,

(b) such land in the possession of recognized bauxite producers or recognized alumina producers within the meaning of the Bauxite and Alumina Industries (Encouragement) Act as may for the time being be exempted by the Minister by notice in the Gazette.

(2) Before making an order under this section the Commission shall consult with the Watersheds Protection Commission established under the Watersheds Protection Act, and with every Authority established under the Irrigation Act, or the Rural Agricultural Development Authority Act in relation to the area in which is situated the land which is to be the subject of the order

## **PART II Development and Utilization of Land** Responsibility of occupier

4.— (1) For the purposes of this Act, it shall be the responsibility of an occupier of an agricultural unit to farm the agricultural land in the unit to such extent as may be practicable having regard to the character and situation of the unit and other relevant circumstances.

(2) In determining whether the occupier of an agricultural unit is fulfilling his responsibility under the Act to farm the agricultural land in the unit regard shall be had to the extent to which and the manner in which—

(a) pasture is being maintained;

(b) arable land is being cropped;

(c) the unit is stocked where the system of farming practised requires the keeping of livestock, so, however, that arable land which for two years or more has not been cropped or used for some other agricultural purpose approved by the Commission shall be conclusively presumed not to be farmed.

Power of Commission to declare idle land

31/1976 S. 3. (a)

31/1976 S. 3. (2).

5.— (1) Where it appears that the occupier of an agricultural unit is not fulfilling his responsibility under this Act to farm any agricultural land comprised in such unit the Commission, if so satisfied after affording to the occupier an opportunity of making representations to the Commission whether in writing or on being heard by a person named by the Commission may by order published in the Gazette declare such unit or any of the agricultural land

therein to be idle land for the purposes of this Act:

Provided that no such order shall be made in respect of land of less than 10 acres, but subject to section 23.

(2) Subject to subsection (3) an order made under subsection (1) shall come into force at the expiration of thirty days from the date of publication thereof in the Gazette.

(3) An occupier may within thirty days (or such longer period as the Minister may allow) from the date of publication thereof in the Gazette and in the prescribed manner appeal to the Minister against any order made under subsection (1), and an order in respect of which an appeal is filed shall not come into force unless and until it is confirmed by the Minister on the hearing of the appeal.

(4) While an idle land order is in force, the Commission shall have power from time to time to review the farming of the land to which the order relates, and-

(a) a review shall be held under this subsection as soon as may be after the expiration of twelve months from the coming into operation of the order (unless a review has been previously held), and, where one or more reviews have already been held under this subsection in relation to the order, a further review shall be held as soon as may be after the expiration of twelve months from the previous or last such review;

(b) a review under this subsection shall be held after affording to the occupier of the land to which the order relates an opportunity of making representations to the Commission, whether in writing or on being heard by a person named by the Commission.

(5) Where an idle land order-

(a) has not been confirmed by the Minister pursuant to subsection (3); or  
(b) is in force and the Commission is satisfied that by reason of the extent to which and the manner in which the land is being farmed, it is no longer necessary that the order should continue in force, the Commission shall revoke the order and such revocation shall be published in the Gazette.

(6) Forthwith after the making of an idle land order the Commission shall serve a copy of the order on the occupier, and forthwith after the revocation of such an order the Commission shall serve notice of the revocation on the occupier.

(7) Where the owner of land is not also the occupier thereof and the Commission is aware of his interest in the land-

(a) an opportunity of making representations to the Commission shall be afforded under subsection (1) or (4), as the case may be, both to the owner and to the occupier;

(b) any service of a copy of an order or of a notice of the revocation of an order required by sub-section (6) shall be effected both on the owner and on the occupier.

Power of Commission to require development plan

20/1977 S. 2.

31/1976 S. 3. (b)

6. - (1) Subject to section 22A upon the coming into force of an idle land order the Commission shall cause to be served on the occupier of the agricultural land to which the order relates a notice requiring him to prepare and to submit to the Commission within such time as may be specified in the notice, not being less than two months after the notice is served on him, a development plan in respect of the farming of such agricultural land:

Provided that a notice shall not be served under this section in respect of any area of land consisting of less than 10 acres, but subject to section 23.

(2) Where a development plan is submitted to the Commission pursuant to subsection (1), the Commission may approve the plan or may reject the plan and cause a notice to be served on the occupier indicating the reasons for rejecting the plan and requiring the plan to be modified in the respects specified in the notice and, within such time as may be so specified, submitted to the Commission for approval.

(3) A development plan approved by the Commission may with the approval of the Commission be modified by the occupier of the land to which it relates.

Changes of occupier of idle land 7. - Where an idle land order is in force in respect of any land any disposition or devolution of that land, whereby some other person becomes the occupier of that land shall not affect the continued operation of the order or of any notice issued pursuant to section 6, and accordingly the order shall continue in force and the notice shall have effect in respect of such new occupier subject to such modifications as may be agreed with the Commission

### **PART III Dispossession of Owners or Occupiers** Dispossession of owner 8. -

(1) Subject to the provisions of this section, where the occupier of idle land being also the owner of such land-

- (a) fails to comply with a notice under subsection (1) of section 6; or
- (b) fails to submit any revised plan required by the Commission or to comply with any notice issued by the Commission under subsection (2) of section 6; or
- (c) fails to complete to the satisfaction of the Commission either-

31/1976 S. 3. (c)

(i) all the work required to be done under the development plan approved by the Commission in relation to such land, within the period specified in such development plan for the completion of such work; or

(ii) any part of the work required to be done under such development plan, within the period specified in such development plan for the completion of that part of the work,

the Commission may certify to the Minister accordingly and thereupon the Minister shall have power to acquire the land or any part thereof (not being less than 10 acres, but subject to section 23) compulsorily under the Land Acquisition Act as land needed for a public purpose.

(2) The Commission shall not give a certificate under subsection (1) until after affording to any such person as is specified in subsection (3) an

opportunity of making representations to the Commission, whether in writing or on being heard by a person appointed by the Commission.

(3) The persons referred to in subsection (2) are, if the certificate relates to settled land within the meaning of the Settled Land Act, any person entered in the register kept for the purposes of this Act who is a trustee of the settlement or who under the settlement has a vested interest in the land immediately following upon the interest of the person beneficially entitled to the land in possession or who, being an infant is beneficially entitled to the land in possession.

Penalty on occupier 9.— (1) Where the occupier of idle land not being the owner of such land—

(a) fails to comply with a notice under subsection (1) of section 6; or  
(b) fails to submit any revised plan required by the Commission or to comply with any notice issued by the Commission under subsection (2) of section 6; or  
(c) fails to complete to the satisfaction of the Commission either—

(i) all the work required to be done under the development plan approved by the Commission in relation to such land, within the period specified in such development plan for the completion of such work; or

(ii) any part of the work required to be done under such development plan, within the period specified in such development plan for the completion of that part of the work,

he shall, subject to subsection (2), be liable to a penalty of ten dollars in respect of each day that he fails to comply with the notice or to submit a revised plan or to complete to the satisfaction of the Commission the work or any part of the work, as the case may be.

(2) Any such penalty shall be recovered by civil action at the suit of the Commission in the Resident Magistrate's Court for the parish in which the idle land or any part thereof is situated; so, however, that the Court shall if so requested by the Commission make an order for the forfeiture to the Crown of the interest of such occupier in the land in lieu of the payment of the penalty.

(3) Where the interest of an occupier in any land is forfeited under this section and at any time after the date of such forfeiture the occupier remains in possession of the land the Minister may make complaint to a Resident Magistrate in a Court of summary jurisdiction and thereupon the Court shall by its warrant in the form set out in the Fifth Schedule to the Landlord and Tenants Act, subject to necessary modifications, order vacant possession of the land forthwith to the Minister.

Power to lease instead of purchasing

31/1976 S. 4.

10.— (1) Where pursuant to section 8 the Minister has the power to acquire land compulsorily he may, after affording to the person from whom the land is to be acquired an opportunity of making representations to him, whether in writing or on being heard by a person appointed by him, by notice in writing

to such person elect, in lieu of purchasing such land, to acquire compulsorily a leasehold interest in such land for such period not exceeding ten years as may be specified in such notice or for any other period exceeding ten years as may be agreed by such person.

(2) Where a leasehold interest in land is compulsorily acquired under subsection (1), the lease shall, subject to section 11, contain such terms and conditions as may be determined by the Minister and may with the agreement of the owner of the land be renewed from time to time, and, subject to subsection (5) in default of such agreement the Minister shall have power—

(a) to renew the lease for a further period not exceeding ten years; or  
(b) if he considers such renewal inexpedient or if the owner requires him to elect between the option provided by this paragraph and that provided by paragraph (c), to cause the land to be restored to the person entitled thereto; or

(c) to acquire the land compulsorily under the Land Acquisition Act as land needed for a public purpose, so, however, that where the land is compulsorily acquired pursuant to this section the compensation payable in respect thereof shall be—

(i) determined on the assumption that the land will continue to be used for agricultural purposes and is not available for use for any other purpose;  
(ii) reduced by the value of any improvements effected thereon by the Government or by any person occupying or farming such land during the period of the lease.

(3) Any such requirement to elect as mentioned in paragraph (b) of subsection (2) shall be notified, in writing to the Minister, and any such notice shall be given to him before commencement of the period of six months, or any lesser prescribed period, ending with the date of expiry of the lease upon determination of which he shall elect as aforesaid:

Provided that where the Commission is satisfied that the owner, on account of illness or for any other cause, is denied reasonable opportunity for giving notice of such a requirement before commencement of the said period, the Minister shall comply with the requirement if notice thereof is given within such time (whether during, or after expiry of, that period) as, in the special circumstances of the case, the Commission considers reasonable.

(4) For the purposes of sub-paragraph (ii) of paragraph (c) of subsection (2), "improvements" includes any amelioration enuring to the benefit of the land from its reclamation, clearance, irrigation, excavation filling, grading, levelling, protection against erosion or flood, or any other works, additions or alterations; and any improvements made at any expense defrayed, or defrayable, directly or indirectly out of public funds shall, for the purposes of sub-paragraph (ii) aforesaid, be deemed to be improvements effected by the Government.

(5) In relation to the termination of any lease pursuant to this section, the provisions of subsections (2) and (3) of section 38 of the Land Acquisition Act shall apply mutatis mutandis as they apply on the expiration of a term

under that Act but without prejudice to the provisions of sub-paragraphs (i) and (ii) of paragraph (c) of subsection (2).

Procedure and compensation

31/1976 S. 5.

11.- (1) The procedure in relation to the compulsory acquisition of a leasehold interest in land under section 10 shall, subject to this section, be the same, mutatis mutandis, as the procedure under the Land Acquisition Act in respect of land needed for a public purpose.

(2) The compensation payable in respect of land so leased shall, in the absence of agreement, be determined accordance with the following principles-

(a) annual rental shall be payable for the land on the basis that each year's rent shall be the equivalent of one per centum of the unimproved value of the land at the time of commencement of the lease or any renewal thereof, as the case may be;

(b) it shall be a condition of the lease of the land-

(i) that all land tax, as defined in paragraph (b) of subsection (5) of section 24 of the Land Valuation Act, shall during the continuance of the lease, be paid by the Commissioner of Lands; and

(ii) that if there is in force an approved mortgage of the land, payments of interest and repayments of capital in conformity with the terms of the approved mortgage, during the continuance of the lease, shall be made by the Commissioner of Lands:

Provided that for the purposes of sub-paragraph (ii) of paragraph

(c) of subsection (2) of section 10, payments so made towards capital shall be deemed to be moneys expended on improvements effected on the land.

(3) Subject to the provisions of subsection (4), for the purposes of this section-

(a) "approved mortgage" means a mortgage which the Commission is satisfied, after affording the parties thereto an opportunity of making representations to the Commission (whether in writing or on being heard by a person appointed by the Commission)-

(i) was not entered into in contemplation of the application of this section; and

(ii) gave rise to proceeds which, in so far as they have been received from the mortgagee, are included in expenditure incurred for the purpose of the purchase, development or improvement of the land so mortgaged, so, however, that whenever a part only of the proceeds is so included, the mortgage shall be treated as an approved mortgage in relation only to that part;

(b) where this section applies to a part only of the land to which an approved mortgage relates, the Commission after affording the parties thereto like opportunity as mentioned in paragraph (a), may make such apportionment of the interest and capital to that part as the Commission deems meet.

(c) "unimproved value" shall, in relation to land leased under section 10, have the meaning attributable in conformity with section 2 of the Land

Valuation Act to that expression, but with reference (notwithstanding anything in that section) to-

(i) the time of commencement of such lease as aforesaid or any renewal thereof, as the case may be; and

(ii) determination by such authority as may exercise the functions conferred in that behalf pursuant to the Land Acquisition Act.

(4) Nothing in subsection (3) shall be construed to prevent the Commission's decision, in so far as it forms a basis for the determination of compensation in conformity with subsection (2), from being subject to reference to the Supreme Court and appeal there from in pursuance of sub-section (1).

(5) Notwithstanding anything to the contrary, the Minister shall, at any time, during the subsistence of any leasehold interest in land pursuant to this Part have power to acquire the land compulsorily under the Land Acquisition Act, subject to like terms as specified in paragraph (c) of subsection (2), and subsection (4), of section 10 in relation to compensation.

**PART IV Land Development and Utilization Commission** Establishment and incorporation of Land Development and Utilization Commission 12.- (1) There is hereby established a body to be called the Land Development and Utilization Commission which shall be a body corporate with perpetual succession and a common seal and with power to acquire, hold and dispose of property, to enter into contracts' to sue and be sued in its said name and to do all things necessary for the purposes of this Act.

(2) The provisions of the Schedule shall have effect as to the constitution, operations and expenses of the Commission and otherwise in relation thereto.

(3) The seal of the Commission shall be authenticated in the manner prescribed in the Schedule and shall be judicially and officially noticed.

Power of Minister to issue general directions in matters of policy 13.- The Minister may, after consultation with the chairman, give to the Commission such directions of a general character as to the policy to be followed by the Commission in the performance of its functions as appear to the Minister to be necessary in the interest of the Island, and the Commission shall give effect thereto.

Duties of Commission 14.- (a) to ensure that occupiers of agricultural units fulfil their responsibilities under this Act to farm the agricultural land in such units;

(b) to ensure that such agricultural land is, as far as possible, properly developed and utilized; and

(c) to perform such other functions as may be required by the Minister.

Powers of Commission to require information 15.- For the purpose of performing its duties under this Act the Commission may require owners and occupiers to furnish such information pertaining to land owned by them or in their possession or control, as the Commission may require, and without prejudice to the generality of the foregoing, the Commission may require from owners or occupiers of land information as to



31/1976 S. 6. (a)

. 31/1976 S. 6. (c).

(a) the area of the land owned or occupied, as the case may be, and the boundaries thereof;

(b) the area of the land in use, and the nature of use;

(c) the form of tenure under which the land is occupied;

(d) the number of tenants (if any) in occupation of the land;

(e) any encumbrances relating to the Land;

(f) the particulars of any registration number, volume, folio, or other information in relation to the land or persons having interest therein recorded in any official records concerning the land or title thereto.

Power of inspection 16.- (1) Subject to subsection (2) any member of the Commission or any person authorized in writing by the Commission in that behalf may at any time in daylight-

(a) enter upon any land for the purpose of-

(i) inspecting the condition of the land or of any agricultural activity thereon;

(ii) ascertaining what crops are cultivated and the conditions under which such crops are so cultivated and the crops which are most suitable to be cultivated upon the land; or

(iii) ascertaining the expediency or otherwise of the doing upon the land of any agricultural activity;

(b) inspect the condition of such land or of any agricultural activity thereon; and

(c) take such angles, bearings or measurements of the land or samples of the soil upon the land as may be necessary for the purpose for which that person entered upon the land.

(2) A person shall not enter upon any land under the provisions of this section without the consent of the person in residence on the land or, if there is no such person, the occupier of the land-

(a) unless he has given to such person or to such occupier, as the case may be, not less than three days' notice of his intention to enter upon such land; or

(b) if the name or address of such person or of such occupier, as the case may be, is not known to and cannot reasonably be ascertained by him, unless a period of not less than three days' has elapsed since he has posted on or near to the land a notice of his intention to enter upon the land.

## **PART V General Provision**

Provisions as to representations 17.- (1) Any enactment in this Act providing, in relation to the taking of any action by the Commission, for its taking the action after affording a person an opportunity to make representations to the Commission, whether in writing or on being heard by a person appointed by the Commission shall be construed as a provision that the Commission shall comply with the following requirements.

(2) The Commission shall give notice to the said person specifying the action proposed to be taken and informing him of the effect of subsections (3), (4) and (5).

(3) If within the prescribed time and in the prescribed manner the said person makes representations to the Commission in writing, the Commission shall not take the action in question until it has considered the representations.

(4) If, whether or not representations are made to the Commission in writing, the said person within the prescribed time and in the prescribed manner requires that an opportunity be afforded to him of being heard by a person appointed by the Commission for the purpose, such an opportunity shall be afforded to him and, on the same occasion, to any other person to whom under the enactment referred to in subsection (1) the Commission is required to afford such an opportunity, and the Commission shall not take the action in question until it has considered any representations made at the hearing.

(5) If for the purposes of any such hearing the person to whom the opportunity is afforded so desires, the like opportunity shall be afforded to a person chosen by him to represent his views to the Commission.

(6) This section shall apply to the Minister as it applies to the Commission.

Service of notices 18.— (1) Any notice or other document required or authorized by or under this Act to be given to or served on any person shall be duly given or served if ;t is delivered to him, or left at his proper address, or sent to him by post in a registered letter.

(2) Any such document required or authorized to be given to or served on an incorporated company or body shall be duly given or served if given to or served on the secretary or clerk of the company or body.

(3) For the purposes of this section the proper address of any person to or on whom any such document as aforesaid is to be given or served shall, in the case of the secretary or clerk of any incorporated company or body, be that of the registered or principal office of the company or body, and in any other case be the last known address of the person in question.

(4) Where any document is to be given to or served on a person as being the person having any interest in land, and it is not practicable after reasonable inquiry to ascertain his name or address, the document may be given or served by addressing it to him by the description of the person having that interest in the land (naming it), and delivering the document to some responsible person on the land or by affixing it or a copy of it to some conspicuous object on the land.

Information as to dealings in agricultural land 19.— The Minister may by regulation require that parties to any sale of agricultural land or to any grant, assignment or surrender of a tenancy of such land for an interest not less than that of a tenant for a year' shall within the prescribed period from the completion of the transaction furnish to the Minister, in such manner as may be prescribed, information as to the nature of the transaction, the names. and addresses of the parties to the transaction and the situation and extent of the land thereby affected.

## Restriction on disposition of agricultural land 20.-

An owner or occupier of, or any other person having an interest in, any land comprising or included in an agricultural unit shall not without the approval in writing of the Commission-

- (a) sell, lease or let the land or any part thereof; or
- (b) transfer or assign his interest therein or in any part thereof, and any such sale, lease, letting, transfer or assignment shall not have effect unless and until it is approved by the Commission.

Power to make regulations 21.- (1) The Minister may make regulations prescribing anything which may be or is required to be prescribed under this Act and generally for the better carrying into effect of the provisions of this Act.

(2) Regulations prescribing the minimum area of agricultural land in an agricultural unit for the purposes of this Act shall be subject to affirmative resolution.

(3) Notwithstanding section 29 of the Interpretation Act, regulations made under this Act may prescribe greater penalties than those specified in the said section 29, so,

however, that the maximum penalty that may be imposed by any such regulations shall be a fine of two hundred dollars or imprisonment with hard labour for a term of twelve months.

Offences 22.- Any person who-

(a) assaults or obstructs a member, servant or agent of the Commission acting in the execution of his duty under this Act; or

(b) having been required by the Commission under section 15 to furnish any information, refuses without just cause or lawful excuse to furnish such information, or knowingly furnishes false information,

shall be guilty of an offence and liable on summary conviction before a Resident Magistrate to a fine not exceeding two hundred dollars or to imprisonment with or without hard labour for a term not exceeding twelve months.

Development plan or utilization plan to be dispensed with in certain circumstances

20/1977 S. 3.

22A.-

Notwithstanding anything to the contrary in section 6 or section 27, upon the coming into force of an idle land order made under Part II or an unused land order made under Part VI, as the case may be, the Minister may, if he things fit, having regard to the circumstances of the case, acquire any land to which such an order relates or any part of such land under the Land Acquisition Act as land needed for a public purpose or acquire compulsorily a leasehold interest in such land or part thereof without having regard to the provisions of section 6 or section 27, as the case may be, with respect to the requirement of preparation and submission by the occupier of such land of a

development plan or a utilization plan in respect of such land, so, however, that-

(a) the provisions of sections 10 and 11 shall, mutatis mutandis, apply to the compulsory acquisition of a leasehold interest as aforesaid; and

(b) subject to section 23, the minimum acreage of idle land so acquired or in respect of which a leasehold interest is so acquired shall be ten acres.

Application of this Act to sub-divisions of agricultural land

31/1976 S. 7.

23.- In relation to any lots resulting from a sub-division of agricultural land, being a sub-division or development sanctioned under the Town and Country Planning Act or the Local Improvements Act after the 26th day of September, 1976, anything provided by virtue of this Act which restricts by reference to a number of acres the application of any provisions of this Act shall apply as if the number of acres so referred to had been reduced to such extent as may be necessary to allow the application of such provisions to those lots.

## **PART VI Unused Land**

Construction of this Part

31/1976 S. 7.

24.- (1) This Part applies to any land, except agricultural land and references in this Part to land shall be construed accordingly, but nothing in this Part shall be construed to prejudice the power of the Commission to make any order under section 3 in respect of any land, other than unused land.

(2) In this Part-

"unused land" means land in respect of which an order under section 26 is in force;

"unused land order" means an order under section 26 declaring land to be unused land for the purposes of this Act:

"value of improvements" shall, in relation to land, have the meaning attributable in conformity with section 2 of the Land Valuation Act to that expression, but with reference (notwithstanding anything in that section) to such date respecting that land as is mentioned in subsection (3) of section 25 of this Act.

Responsibility of occupier of land

31/1976 S. 7.

25.- (1) For the purposes of this Act it shall be the responsibility of the occupier of land to develop and use it to such extent as may be practicable having regard to the character and situation of the land and other relevant circumstances.

(2) In determining whether the occupier of land is fulfilling his responsibility for the purposes of this Part regard shall be had to-

(a) the extent to which and the manner in which industrial, commercial, residential or any other activity is being carried out on the land; and

(b) the nature and complexity of any plans under consideration for development

of the land, and the extent to which the time required for implementation of those plans is reasonable in all the circumstances of the case.

Power of Commission to declare land unused land

31/1976 S. 7.

(1) Where it appears that the occupier of land is not fulfilling his responsibility for the purposes of this Part to develop and use the land, the Commission, if so satisfied after affording to the occupier an opportunity of making representations to the Commission whether in writing or on being heard by a person named by the Commission, may by order published in the Gazette declare such land or, subject to subsection (2), any portion thereof to be unused land for the purposes of this Act.

(2) An order under subsection (1) shall not be made in respect of a portion only of land unless the whole land exceeds ten acres.

(3) Subject to subsection (4), an order made under subsection (1) shall come into force at the expiration of thirty days from the date of publication thereof in the Gazette.

(4) An occupier may, within thirty days (or such longer period as the Minister may allow) from the date of publication thereof in the Gazette and in the prescribed manner, appeal to the Minister against any order made under subsection (1), and an order in respect of which an appeal is filed shall not come into force unless and until it is confirmed by the Minister on the hearing of the appeal.

(5) While an unused land order is in force, the Commission shall have power from time to time to review the development and use of the land to which the order relates, and—

(a) a review shall be held under this subsection as soon as may be after the expiration of twelve months from the coming into operation of the order (unless a review has been previously held), and, where one or more reviews have already been held under this subsection in relation to the order, a further review shall be held as soon as may be after the expiration of twelve months from the previous or last such review;

(b) a review under this subsection shall be held after affording to the occupier of the land to which the order relates an opportunity of making representations to the Commission, whether in writing or on being heard by a person named by the Commission.

(6) Where an unused land order—

(a) has not been confirmed by the Minister pursuant to subsection (4); or

(b) is in force and the Commission is satisfied that by reason of the extent to which and the manner in which the land is being developed or used, it is no longer necessary that the order should continue in force the Commission shall revoke the order and such revocation shall be published in the Gazette.

(7) Forthwith after the making of an unused land order the Commission shall serve a copy of the order on the occupier, and forthwith after revocation of such an order the Commission shall serve notice of the revocation on the occupier.

(8) Where the owner of land is not also the occupier thereof and the Commission is aware of his interest in the land-

(a) an opportunity of making representations to the Commission shall be afforded under subsection (1) or (5), as the case may be, both to the owner and the occupier;

(b) the owner shall have the like right of appeal under subsection (4) as if he were an occupier;

(c) any service of a copy of an order or of a notice of the revocation of an order required by sub-section (7) shall be effected both on the owner and the occupier.

Power of Commission to require development plan for unused land

31/1976 S. 7.

20/1977 S. 4.

27.- (1) Subject to section 22A upon the coming into force of an unused land order the Commission shall cause to be served on the occupier of the land to which the order relates a notice requiring him to prepare and to submit to the Commission within such time as may be specified in the notice, not being less than two months after the notice is served on him, or such further time as the Commission may allow in the special circumstances of the case a utilization plan in respect of the development or use of such land.

(2) Where a utilization plan is submitted to the Commission pursuant to subsection (1), the Commission may, subject to the provisions of the Town and Country Planning Act and the Local Improvements Act, approve the plan or may reject the plan and cause a notice to be served on the occupier indicating the reasons for rejecting the plan and requiring the plan to be modified in the respects specified in the notice and, within such time as may be so specified, submitted to the Commission for approval.

(3) A utilization plan approved by the Commission may, with the approval of the Commission, be modified by the occupier of the land to which it relates.

Changes of occupier of unused land

31/1976 S. 7.

28.- Where an unused land order is in force in respect of any land, any disposition or devaluation of that land, whereby some other person becomes the occupier of that land, shall not affect the continued operation of the order or of any notice issued pursuant to section 27, and accordingly the order shall continue in force and the notice shall have effect in respect of such new occupier subject to such modifications as may be agreed with the Commission.

Application of Parts III and V and sections 14 and 15 to unused land

31/1976 S. 7.

29.- The provisions of Part III of sections 14 and 15, and of Part V shall apply, with the necessary adaptations and modifications. in relation to unused land. and otherwise for giving further and better effect to this Part. as they apply for purposes relating to agricultural land, so however that-

(a) there shall except to the like extent as specified in subsection (2) of section 26, be no restriction as to the minimum acreage that may accordingly be acquired or leased pursuant to the provisions of Part III; and

(b) paragraph (c) of subsection (2) of section 10 shall have effect as if subparagraph (i) of that paragraph had been deleted and the following subparagraph inserted instead-

"(i) determined with such user of the land in contemplation as would have been taken into account if such determination were being made at the time of commencement of the lease or any renewal thereof, as the case may be;'';

(c) nothing in this section shall be construed to provide for the application of section 20 in relation to any land. other than unused land.

## **SCHEDULE (Section 12) The Land Development and Utilization**

### **Commission**

#### **Appointment of members** 9/97 S. 2 (a).

1 The Commission shall consist of nine persons to be appointed by the Minister.

#### Temporary appointments 2

The Minister may appoint any person to act temporarily in the place of any member of the Commission in the case of the absence or inability to, act of such member.

#### Chairman 3

(1) The Minister shall appoint one of the members of the Commission to be the chairman thereof, and may in the case of the absence or inability to act of the chairman appoint any other member of the Commission to perform the functions of the chairman.

(2) In the case of the absence or inability to act, at any meeting, of the chairman the remaining members of the Commission shall elect one of their number to preside at that meeting.

Tenure of office 4 (1) The appointment of every member of the Commission shall be evidenced by an instrument in writing, and such instrument shall state the period of office of the member which shall not exceed three years.

(2) Every member of the Commission shall be eligible for reappointment.

(3) Notwithstanding, anything to the contrary the Minister may at any time revoke the appointment of the chairman or any other member of the Commission

#### Resignation

Resignation 5 (1) Any member of the Commission other than the chairman may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of the receipt by the Minister of such instrument such member shall cease to be a member of the Commission.

(2) The chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument by the Minister.

Publication of membership 6 The names of all members of the Commission as first constituted and every change in the membership thereof shall be published in the Gazette.

Authentication of seal and documents 7 (1) The seal of the Commission shall be authenticated by the signatures of the chairman or one member of the Commission authorized to act in that behalf and an officer of the Commission authorized to act by the Commission.

(2) All documents, other than those required by law to be under seal, made by, and all decisions of, the Commission may be signified under the hand of the chairman or any member or officer of the Commission authorized to act in that behalf.

Procedure and meeting

9/97 S. 2 (b).

8 (1) The Commission shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Commission shall determine.

(2) The chairman may at any time call a special meeting of the Commission and shall call a special meeting to be held within seven days of a written request for that purpose addressed to him by any two members of the Commission.

(3) The chairman or, in the case of the absence or inability to act of the chairman, the person elected accordance with the provisions of sub-paragraph (2) of paragraph 3 shall preside at the meetings of the Commission, and when so presiding the chairman or the person elected as aforesaid, as the case may be, shall have an original and a casting vote.

(4) The quorum of the Commission shall be five members of the Commission including the chairman or the person elected to preside as aforesaid.

(5) Subject to the provisions of this Schedule the Commission may regulate its own proceedings.

(6) The validity of any proceedings of the Commission shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

Remuneration of members 9 There shall be paid to the chairman and other members of the Commission such remuneration, if any (whether by way of salaries or travelling or other allowances), as the Minister may determine.

Funds of the Commission 10 The funds of the Commission shall consist of such moneys as may from time to time be placed at its disposition for the purposes of this Act by Parliament, or such other moneys as may lawfully be paid to the Commission.

Power to appoint officers, agents and servants

31/1976 S. 8.

11 (1) The Commission may appoint and employ at such remuneration and on such terms and conditions as it thinks fit, such officers accounts and servants as it thinks necessary for the proper carrying out of its functions:

Provided that no appointment to a post carrying a salary in excess of the rate of eight thousand dollars per annum shall be made without the prior approval



of the Minister.

(2) The Governor-General may, subject to such conditions as he may impose, approve of the appointment of any public officer in the service of Jamaica to any office with the Commission and any public officer so appointed shall in relation to pension, gratuity or other allowance and to other rights as a public officer, be treated as continuing in the service of the Government.

Protection of members of Commission 12 (1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Commission in respect of any act done bona fide in pursuance or execution or intended execution of this Act.

(2) Where any member of the Commission is exempt from liability by reason only of the provisions of this paragraph the Commission shall be liable to the extent that it would be if the said member was a servant or agent of the Commission.

Office of chairman or member not a public office 13 The office of chairman or member of the Commission shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica.

Accounts and audit and estimates 14 (1) The Commission shall keep proper accounts and other records in relation to the business of the Commission and shall prepare annually a statement of accounts in a form satisfactory to the Minister and shall submit the same from time to time with vouchers to the Auditor-General to be audited.

(2) The Commission shall, on or before the thirty-first day of October in each year, submit to the Minister for his approval, its estimates of revenue and expenditure in respect of the financial year commencing on the first of April next following.

Annual report 15 (1) The Commission shall, as soon as practicable after the end of each financial year, cause to be made and transmit to the Minister a report dealing generally with the activities of the Commission during that financial year, and containing such information relating to the proceedings and policy of the Commission as can be made public without detriment to the interest of the Commission.

(2) The Minister shall cause a copy of the report together with the annual statement of accounts and the Auditor-General's report thereon and on the accounts to be laid on the respective Tables of both Houses of Parliament.

Power of Minister to require returns 16 The Commission shall furnish the Minister with such returns accounts and other information as he may require with respect to the activities of the Commission, and shall afford to him facilities for verifying such information in such manner and at such times as he may reasonably require.

THE LAND DEVELOPMENT AND UTILIZATION (AMENDMENT) ACT 9 OF 1997

I assent,

[L. S.]

H. F. COOKE,

Governor-General

25th day of March, 1997.

AN ACT to Amend the Land Development and Utilization Act.

[ March 26, 1997 ]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:-

1 Short title and construction

This Act may be cited as the Land Development and Utilization (Amendment) Act, 1997, and shall be read and construed as one with the Land Development and Utilization Act (hereinafter referred to as the principal Act) and all amendments thereto.

2 Amendment of Schedule to principal Act

The Schedule to the principal Act is amended-

(a) by deleting from paragraph 1 the word "five" and substituting therefor the word "nine";

(b) by deleting from sub-paragraph (4) of paragraph 8 the word "three" and substituting therefor the word "five"



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