

# **THE BUILDING ACT**

(Act of 2011)

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SCHEDULES.

# A BILL

ENTITLED

AN ACT to repeal the Kingston and St. Andrew Building Act and the Parish Councils Building Act and make new provisions for the regulation of the building industry; to facilitate the adoption and efficient application of national building standards to be called the National Building Code of Jamaica for ensuring safety in the building environment, enhancing amenities and promoting sustainable development; and for connected matters.

[ ]

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:—

## Part I. *Preliminary*

1. This Act may be cited as the Building Act, 2011, and shall come into operation on a date to be appointed by the Minister by notice published in the *Gazette*.

Short title and  
commence-  
ment.

Interpretation.

2. In this Act—

“amenities” means such quality or condition of a place or area as contributes to its pleasantness, harmony, and better enjoyment, and includes open spaces, parks, recreation grounds, and playgrounds;

“Appeal Tribunal” means the Tribunal established by section 70;

“applicant” means an applicant for a building permit pursuant to section 18;

“authorized person” means a person who is authorized by a Local Building Authority, under this Act, to undertake or perform any function which the Local Building Authority is empowered to undertake or perform;

“builder” means the person who has been employed, contracted or otherwise designated to execute building work in accordance with a building permit, or where no such person is so employed, contracted or otherwise designated, the permit holder or his agent;

“building”—

(a) means a physical structure, temporary structure, and any part of a building, or any architectural or engineering product or work erected or constructed on, over or under land or the sea or other body of water; and

(b) includes a domestic building, public building and a building of the public class;

“Building Advisory Council” means the Building Advisory Council established by section 88;

“building official” means the Building Surveyor and any person who is employed or designated by a Local Building Authority pursuant to section 9(1);

“building permit” means a building permit granted by the relevant Local Building Authority under section 24(1)(a);

“building practitioner” means a person engaged in any phase of the design, construction, repair, demolition, modification, erection or supervision of a building;

“building professional” means a person engaged in any phase of the design, construction, repair, demolition, modification, erection or supervision of a building who is registered under an Act but does not include a building official;

“Building Surveyor” means—

- (a) the City Engineer of the Kingston and St. Andrew Corporation;
- (b) the Superintendent of Parochial Roads and Works of a Parish Council or a Municipal Council; or
- (c) any building official appointed for the purposes of this Act by a Local Building Authority to carry out the functions of the Building Surveyor;

“building work” means the construction, alteration, repair, demolition, erection, or extension of a building, or part thereof, and includes—

- (a) any increase in height or floor space of a building;
- (b) any addition to or alteration of a building that affects or is likely to affect its drainage or sanitary arrangements or its soundness;
- (c) any addition to or alteration of a building, whether done before or after completion of the



building, that departs in any particular from any plan or specification approved at any time by any authority empowered under any enactment to approve the plan or specification in respect of that building;

- (d) any addition to or alteration of a building that materially affects or is likely to materially affect the building in any manner;
- (e) work of any kind declared by the Minister to be building work for the purposes of this Act; and
- (f) any other operation normally undertaken by a person carrying on the business of building construction;

“buildings of the warehouse class” includes a warehouse, factory, brewery, foundry and any building designed or used for the purpose of the storage, manufacturing, fabrication or assembly of goods or products that is neither a public building nor a domestic building;

“certificate of compliance” means a certificate issued by the Local Building Authority pursuant to section 31;

“certificate of occupancy” means a certificate issued by the Local Building Authority pursuant to section 8(c);

“domestic building” includes a dwelling house and any other building not being a public building or a building of the warehouse class;

“emergency” means a present or imminent event in respect of which a Local Building Authority reasonably believes prompt co-ordination of action or special regulation of persons or property shall be undertaken to protect the health, safety or welfare of people or to limit damage to property;

“I-Codes” means the International Codes published by the International Codes Council as adopted, from time to time, by the Standards Authority pursuant to section 16 (1), including the—

- (a) International Codes Council Performance Code;
- (b) International Building Code;
- (c) International Energy Conservation Code;
- (d) International Existing Building Code;
- (e) International Fire Code;
- (f) International Fuel Gas Code;
- (g) International Green Construction Code;
- (h) International Mechanical Code;
- (i) International Plumbing Code;
- (j) International Private Sewage Disposal Code;
- (k) International Property Maintenance Code;
- (l) International Residential Code; and
- (m) International Swimming Pool and Spa Code.

“international symbol of access” means the symbol adopted by the International Society for Rehabilitation of the Disabled at the Eleventh World Congress on the Rehabilitation of the Disabled held at Dublin, Ireland in September, 1969;

“Jamaica” includes the Exclusive Economic Zone established under section 3 of the Exclusive Economic Zone Act;

“licensed building practitioner” means a person who is licensed as a building practitioner under section 79;

“Local Building Authority” has the meaning assigned to it in section 7;

“National Building Code” means the National Building Code of Jamaica specified in section 14;

“owner”, in relation to any land or building, means—

- (a) the registered proprietor of the land;
- (b) the registered lessee of a lease including a registered sublessee;
- (c) a person who holds a beneficial interest in the land;
- (d) the agent or trustee of any of the persons described in paragraphs (a), (b) or (c) if in the opinion of the Minister that any of such persons cannot be found;
- (e) the legal personal representative of any of the persons described in paragraphs (a) and (b) if any of such persons is dead; or
- (f) the person who for the time being is receiving the rent of the premises in connection with which the word is used whether on his own account or as agent or trustee for any other person or as a receiver or who would receive the rent if the premises were let to a tenant;

“permit holder” means a person who has been granted a building permit pursuant to section 24;

“public building” includes school, college or place of instruction; church, chapel, and other place of worship, clinic, hospital, theatre, public hall and concert room, place of public assemble, hotel, tower, office, warehouse, shop, platform, pier, jetty, elevator, gazebo, garage, storage facility, human shelter, community centre and emergency shelter;

“relevant Local Building Authority” in relation to a building, building work or land, means the Local Building Authority of the area in which the building or land is situate or the building work is carried out;

“Secretary” means a person appointed to or carrying out the functions of the office of secretary within the meaning of the Parish Councils Act and includes the Town Clerk of the Kingston and St. Andrew Corporation and the Chief Administrative Manager of a Municipality;

“Superintendent of Parochial Roads and Works” has the meaning assigned to it in section 2(2) of the Parochial Roads Act;

“temporary structure” includes—

- (a) a booth, tent, marquee or other temporary enclosure, whether or not a part of the booth, tent, marquee or enclosure is permanent; or
- (b) a seating structure whether enclosed or not, including a mobile seating structure.

3. The objects of this Act are to—

Objects of  
Act.

- (a) regulate the design, construction, maintenance, demolition, removal, alteration, repair and use of buildings and building work so as to protect the public safety and health;
- (b) give effect to the National Building Code of Jamaica;
- (c) facilitate—
  - (i) the adoption and efficient application of internationally-recognized building standards; and
  - (ii) the accreditation of building products, construction, methods, building components and building systems;

- (d) enhance amenities in general and require the construction of buildings that provide easy access and adequate amenities for persons with disabilities in particular;
- (c) promote cost effectiveness in the construction of buildings;
- (f) promote the construction of environmentally and energy efficient buildings;
- (g) establish an efficient and effective system for issuing building permits and certificates of occupancy and for resolving building disputes, including through alternative dispute resolution;
- (h) regulate the standard of training and certification and provide for the licensing of building practitioners and the recognition of building professionals who are regulated under other Acts; and
- (i) establish a building and an appeal process.

Application of  
Act.

4.—(1) Subject to subsection (2), this Act applies to building work in the entire Jamaica.

(2) This Act shall not apply to—

- (a) minor repairs or maintenance, as determined by the Local Building Authority, that do not affect the structural integrity or essential design of the building or breach the provisions of the National Building Code;
- (b) the erection of a minor structure for the keeping of domestic animals or the storage of domestic goods if the structure does not exceed a dimension of eight feet by six feet by seven feet and is not attached to a main building; and
- (c) a wall that does not form part of a building, does not exceed four feet and does not have a surcharge that is to say, a horizontally acting force.

5.—(1) This Act does not apply to the carrying out of any building work in accordance with a building permit existing immediately before the building regulation or amendment commences.

Application of  
new building  
regulations to  
building work.

(2) A building regulation, or an amendment to a building regulation, does not apply to the carrying out of building work if the relevant Building Surveyor is satisfied, and certifies in writing, that substantial progress was made on the design of the building before the building regulation or amendment commenced.

(3) Subject to any determination of the Appeal Tribunal, building work referred to in subsection (1) or (2) shall be carried out in accordance with the provisions of any enactments in force at the material times as if the building regulation or amendment had not come into operation.

(4) Despite subsections (1) to (3), the relevant Building Surveyor and the owner of the building or land concerned may agree that a building regulation, or an amendment to a building regulation, is to apply to the carrying out of building work referred to in those subsections.

6.—(1) Subject to subsection (2), the provisions of this Act shall be in addition to, and not in derogation of, or in substitution for the—

Savings of  
other laws,  
etc.

- (a) *Housing Act*;
- (b) *Jamaica National Heritage Trust Act*;
- (c) *National Housing Trust Act*;
- (d) *Natural Resources Conservation Authority Act*;
- (c) *Planning Act*;
- (d) *Town and Country Planning Act*; or
- (e) *Urban Development Corporation Act*.

(2) If a provision of this Act, any regulations hereunder or the National Building Code regulates buildings or building work

within the area of jurisdiction of a Local Building Authority, the provision of any other enactment which also regulates that matter—

- (a) if not inconsistent with that provision, shall be complied with in addition to the provision of the other enactment; or
- (b) if inconsistent with that provision—
  - (i) so far as is practicable, shall be read so as to resolve the inconsistency; and
  - (ii) subject to sub-paragraph (i), to the extent of the inconsistency, the provision of the other enactment ceases to have effect in that area for the period that the provision of this Act, any regulations hereunder or the National Building Code is in force.

(3) A Local Building Authority shall publish notice in a newspaper circulating generally in its area of jurisdiction of the fact that a regulation has ceased to have effect in its area of jurisdiction or any part of it.

*Part II. Regulatory and Enforcement Responsibilities Local Building Authority*

Designation  
and  
jurisdiction of  
Local Building  
Authority.

7. For the purposes of this Act, the Local Building Authority for—

- (a) the parishes of Kingston and St. Andrew, shall be the Kingston and St. Andrew Corporation;
- (b) any other parish, shall be the Parish Council for that parish; and
- (c) a Municipality shall be the Municipal Council for the Municipality.

Functions of  
Local Building  
Authority.

8. The functions of each Local Building Authority shall be to—

- (a) administer and enforce the provisions of this Act, including the National Building Code within the area of jurisdiction of the Authority;

- (b) accept and consider applications for building permission in respect of all proposed buildings to which this Act applies and to grant approval of such applications, subject to any conditions that may be deemed necessary, provided that such applications are in compliance with this Act and the provisions of the National Building Code;
- (c) ensure that the erection, repair, extension, demolition, use or modification of any building within its jurisdiction are carried out in accordance with the provisions of this Act and the National Building Code;
- (d) keep and maintain full, accurate and up-to-date records of all applications received and approvals or other determination made; inspections carried out, breaches identified and actions taken, or other pertinent actions taken of its responsibilities under this Act; and to make this information available to the public and interested parties; subject to such guidelines as may be established;
- (e) issue certificates of compliance and certificates of occupancy in respect of buildings and building works;
- (f) make regulations for the effective administration and enforcement of the Act and the National Building Code;
- (g) prescribe fees for services provided by or on behalf of the Authority;
- (h) ensure that design submitted in respect of building application are in compliance with the provision of the relevant code and that works executed in respect of building permits are undertaken by persons competent to perform such task; and
- (i) perform such other functions as are necessary or expedient for or in connection with the proper performance of its functions under this Act.



*Building Officials*

Appointment  
and  
designation of  
building  
officials.

9.—(1) Subject to subsection (2), a Local Building Authority may in relation to its area of jurisdiction—

- (a) appoint and employ at such remuneration and on such terms and conditions as it thinks fit, Building Surveyors, Deputy Building Surveyors, District Surveyors and other building officials and such other officers and employees as the Authority deems necessary for the proper carrying out of its functions; and
- (b) designate officers of the Authority to undertake specified functions in respect of the administration and enforcement of building matters.

(2) No salary in excess of the prescribed rate shall be assigned to any post without the prior approval of the Minister responsible for finance and no appointment shall be made to any post to which salary in excess of the prescribed rate is assigned without the prior approval of the Minister responsible for finance.

(3) For the purposes of subsection (2), the “prescribed rate” means such rate as the Minister responsible for finance may, by order, prescribe.

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

*Building Surveyor*

Functions of  
Building  
Surveyor.

10.—(1) For the purposes of this Act, a Building Surveyor shall—

- (a) have superintendence over all buildings and building works within the area of jurisdiction of the Local Building Authority in which he holds office;

- (b) ensure that the erection, repair, modification, demolition and use of any such building are undertaken in accordance with this Act, the National Building Codes, and the building permit granted by the Local Building Authority, in respect of the building;
- (c) unless otherwise directed by the Local Building Authority, exercise supervision over all building officials employed in the service of the Local Building Authority in which he holds office; and also over any person engaged by the Local Building Authority to carry out any function of the Local Building Authority;
- (d) take appropriate action to—
  - (i) identify, halt and ensure that any breach of this Act or the National Building Code, is remedied in a timely manner and that relevant sanctions are applied;
  - (ii) safeguard and protect the public or users of any building from any danger or hazard that might be posed by any dangerous building;
- (e) ensure that all applications for building permits are processed in a timely manner and in accordance with such standards and benchmarks that might be established from time to time; and that all duties that are to be performed in respect of the inspection of building works are conducted in a manner to prevent unnecessary delays;
- (f) keep and maintain records in respect of the receipt and processing of applications for building permits or the conduct of inspections, as well as the identification of and actions taken regarding breaches of this Act or the National Building Code;
- (g) prepare and submit reports in a timely manner through the Secretary as may be required by this Act or requested by the Local Building Authority, from time to time, and to

advise the Local Building Authority and the Secretary on technical matters that are relevant to proper administration and enforcement of this Act and discharge of their functions under the Act.

Building  
Surveyor to  
submit  
returns.

**11.—**(1) A Building Surveyor shall, within seven days after the first day of each month, submit a return in the prescribed form to the relevant Local Building Authority through the Secretary containing in relation to the previous month the information specified in subsection (2).

(2) Subsection (1) refers to information on—

- (a) all notices and complaints received by the Surveyor in the administration of this Act, and the results thereof;
- (b) all matters brought by him before any Justice or court of summary jurisdiction;
- (c) all the works supervised and special services performed by him in the exercise of his office within the previous month;
- (d) the description and locality of every building erected, repaired, extended, demolished or modified, or on which any work has been done, under his supervision; and
- (e) the particular nature of every work in respect of which any fee has been imposed by the Authority.

Return to  
indicate  
completion of  
works.

**12.** A return under section 11 shall be signed by the Building Surveyor, and certified by him that to the best of his knowledge and belief, all works, specified therein, have been completed in all respects in accordance with this Act and that they have been duly surveyed by him.

Survey of  
building by  
Surveyor  
acting  
privately.

**13.** The Building Surveyor or any building official or authorized person appointed by the Local Building Authority shall not engage in any private work or carry out any function in respect of the design and submission of application for building permission, or be involved in the construction or supervision of any building works

within the jurisdiction of the Local Building Authority in which he is employed and shall not engage in any activity that represents a conflict of interest with his employment to the Local Building Authority.

### Part III. *National Building Code*

**14.**—(1) For the purposes of this Act and subject to section 16 (1)(a), there shall be a national building code for Jamaica which shall be called the National Building Code of Jamaica. National Building Code.

(2) The National Building Code shall prescribe—

- (a) functional requirements for buildings; and
- (b) performance criteria that buildings shall comply with in their intended use—
  - (i) generally throughout Jamaica or in particular geographical areas of Jamaica; and
  - (ii) generally over a range of circumstances or in particular circumstances only.

(3) Every builder shall comply with the National Building Code in respect of building work under his responsibility.

(4) Every owner or occupier of land where building work has been carried out or is to be carried out, any person who carries out or takes steps to carry out the building work on the land and any other person concerned in the management of the work on the land, carrying out building work himself shall comply with the National Building Code.

(5) Every building practitioner or building professional who prepares plans and specifications for building work shall comply with the National Building Code.

**15.** —(1) For the purposes of this Act, there is hereby designated a body to be called the Standards Authority in respect of the National Building Code, which shall have the functions specified in section 16. Designation of Standards Authority.

(2) The Bureau of Standards or such other body as the Minister may, by order published in the *Gazette*, designate, shall be the Standards Authority.

Functions of  
Standards  
Authority.

**16.—**(1) The functions of the Standards Authority are to—

- (a) prescribe —
  - (i) the National Building Code; and
  - (ii) determine the extent to which the I-Codes shall apply to Jamaica and incorporated in the National Building Code;
- (b) be the certifying authority under the Act with respect to building standards, building products, construction methods, building components and building systems; and
- (c) perform such other functions as may be assigned to it, from time to time, by the Minister or by or under this Act or any other enactment.

(2) A building product, construction method, design, component or system connected with building work and accredited by the Standards Authority is accredited for the purposes of this Act.

(3) The accreditation is subject to any conditions or variations imposed by the Standards Authority, from time to time, and remains in force until the accreditation is revoked by the Authority.

(4) Regulations made under section 91 may provide for the issue of certificates of accreditation for building products, construction methods, designs, components and systems accredited by the Standards Authority.

(5) The relevant Building Surveyor shall not refuse to approve building work on the ground that any building product, construction method, design, component or system connected with

the building work is unsatisfactory if the product, method, design, component or system is accredited by the Standards Authority and it complies with that accreditation.

#### Part IV. *Building Permits*

**17.—**(1) A person shall not carry out any building work unless— Requirement for building permit.

- (a) a building permit in respect of the work has been issued to him;
- (b) and the work is carried out in accordance with this Act, any regulations made hereunder and the building permit.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on summary conviction before a Resident Magistrate to the penalty specified in respect thereto in the First Schedule.

**18.—**(1) A person who intends to carry out building work shall apply in the prescribed form and manner to the relevant Local Building Authority for the appropriate building permit. Application for building permit.

(2) An application under subsection (1) shall be accompanied by the prescribed application fee.

(3) Where the relevant Local Building Authority thinks necessary, it may require an applicant for a building permit to furnish such additional information or document as it may specify.

(4) Subsection (1) does not apply to building work that is exempted by or under this Act or any regulations made hereunder.

(5) The applicant shall cause to be placed, in a conspicuous place on the premises where the applicant intends to build, a notice of intention to build which shall—

- (a) be in the prescribed form; and
- (b) contain a statement that any interested person who is aggrieved or has objections may register his objections with the Local Building Authority.

(6) The notice of intention to build shall also be placed in one of the following places in the parish where the applicant intends to build—

- (a) a court house;
- (b) a police station;
- (c) a post office or postal agency or such other public place as may be specified.

Requirements regarding notice of intention to build.

**19.** Subject to section 20—

- (a) an application for a building permit shall not be accepted as complete unless the related notice of intention to build has been posted in accordance with section 18; and
- (b) the notice of intention to build shall remain displayed until the decision on the application has been determined.

Emergency building work before notice given.

**20.—**(1) Subject to subsection (2) and notwithstanding anything to the contrary in this Part, an emergency, building work (in this section called (“emergency building work”)) may be carried out, immediately, or before a notice of intention can be given.

(2) Before the expiration of twenty-four hours after the emergency building work has begun, the person responsible for carrying out the work shall give notice thereof to the relevant Local Building Authority and the Building Surveyor.

(3) Nothing in this section prevents the relevant Local Building Authority from exercising any power conferred upon it pursuant to Part V.

Applicant to notify interested persons of specific features of building work.

**21.—**(1) An applicant may be required to make available such information as may be necessary to satisfy the legitimate concerns regarding such features of the proposed building as the Local Building Authority may deem to be of value to an interested person.

(2) In this section and sections 22 and 23, “interested person” means —

- (a) the owner or occupier of any premises abutting, adjoining or adjacent to the premises where the notice of the intention to build has been posted; or
- (b) an owner or occupier of property in the neighbourhood of the proposed building work and who has declared in writing to the relevant Local Building Authority that the property owned or occupied by that person is or would be affected adversely by the proposed building work or has registered his objection in accordance with section 22.

**22.** An interested person may register his objections in the prescribed manner with the Local Building Authority.

Objection to  
proposed  
building work.

**23.—(1)** A Local Building Authority is required to direct the holding of a proposed public or, as the case may require, private consultation in the area under its jurisdiction where prescribed buildings or structures are to be erected, or where there is objection to a proposed building work.

Consultation  
on proposed  
building work.

(2) A Local Building Authority shall have regard to the following matters in determining whether to direct the holding of a public or private consultation, namely —

- (a) whether the proposed use of the building and the nature of the construction is of a type that requires interested persons and other members of the public to be notified; and
- (b) whether the proposed building work is likely to have an adverse impact on persons who have registered with the Authority their concerns.

**24.—(1)** A Local Building Authority may, in relation to an application for a building permit made under section 18—

Grant or  
refusal of  
building  
permit.

- (a) grant the building permits;



- (b) grant the building permit, subject to such conditions as it may specify therein; or
- (c) refuse to grant the permit.

(2) Regulations made under section 91 may prescribe a time within which a Local Building Authority shall decide an application for a building permit.

(3) A building permit may be granted for—

- (a) the whole of the proposed building work; or
- (b) a stage of the proposed building work.

(4) Where the Local Building Authority refuses to grant a building permit, it shall so inform the applicant in writing stating the reasons therefor and advise the applicant of his right to appeal the decision.

(5) If additional information or a document or an amended application required to be supplied by an applicant is not supplied within the time specified by the relevant Local Building Authority, the application may be refused.

(6) Before refusing an application under subsection (1), the relevant Local Building Authority shall give to the applicant thirty days notice in writing of its intention to refuse the application.

Non-transferability and validity of permit.

**25.** A building permit granted under section 24(1), shall—

- (a) not be transferable; and
- (b) be valid for such period as is specified therein.

Variation, modification, etc. of permit.

**26.** A permit holder may apply to the relevant Local Building Authority for the variation, modification, or surrender of the building permit, stating clearly the reasons therefor.

Suspension of building permit.

**27.—** (1) Subject to subsection (2), the relevant Local Building Authority may suspend a building permit if—

- (a) the permit holder has failed to pay any fees or other charges required by this Act or any regulations made hereunder;

(b) the permit holder is in breach of —

- (i) any provision of this Act, any regulations made hereunder or a condition specified in the permit; or
- (ii) any term or condition subject to which the permit is granted;

(c) it is satisfied that it is not possible to carry out a proper inspection of the building work.

(2) Before suspending a building permit under subsection (1) (a), (b) or (c), the relevant Local Building Authority shall notify the permit holder in writing of the proposed suspension—

- (a) stating the reason therefor;
- (b) requiring the permit holder, in the case of a breach, to remedy the breach within the time specified in the notice.

(3) A permit holder who is served with a notice under subsection (2) shall, after remedying the breach which gave rise to the suspension, notify the relevant Local Building Authority in writing that the breach has been remedied.

(4) The relevant Local Building Authority shall, upon receipt of a notice referred to in subsection (3), cause an inspection to be carried out within ten days of the receipt of the notice and if, on inspection, the building official or other authorized person is satisfied that the breach has been remedied, he shall report in writing to the relevant Local Building Authority which shall withdraw the notice of suspension.

**28.—**( 1) The relevant Local Building Authority may revoke a building permit if it is satisfied that—

Revocation of  
building  
permit.

- (a) a permit holder has ceased to comply with the provisions of this Act, any regulations made hereunder or any condition specified in the permit in relation to the building work;

- (b) the application for the building permit contained any false or misleading information in any material particular;
- (c) the permit holder has failed to remedy the breach which gave rise to the suspension of the building permit under section 27, within the time specified in a notice under subsection (2) of that section;
- (d) any fee or other charge payable by the permit holder remains unpaid for a period of ninety days after the suspension of the building permit.

(2) Before revoking a licence under subsection (1), the Local Building Authority shall notify the licensee in writing of the proposed revocation stating the reasons therefor.

National  
monuments  
and protected  
national  
heritage.

**29.**—(1) Notwithstanding section 18, the relevant Local Building Authority, on the recommendation of the Building Surveyor, may issue a building permit for the carrying out of building work that does not comply with the building regulations if the work is to be carried out on, or in connection with any building that is a national monument or that is designated as protected national heritage under the *Jamaica National Heritage Trust Act*.

(2) The building permit may be issued to enable the carrying out of work appropriate to the style, manner of construction and materials of the building.

(3) In deciding an application for a building permit in respect of a building to which subsection (1) applies, the relevant Building Surveyor shall take into account —

- (a) the structural adequacy of the building; and
- (b) the requirements necessary to make reasonable provision for amenities and the safety and health of people using the building.

(4) The consent and report of the Chief Executive Director under the *Jamaica National Heritage Trust Act* shall be obtained in respect of an application to demolish or alter any building that

is a national monument or that is designated as protected national heritage under that Act.

*Part V. Enforcement*  
*Inspection and Monitoring*

**30.** The Local Building Authority may monitor the progress of any of building work approved under this Act, as often as may be necessary to cause the Authority to—

Monitoring of building work.

- (a) secure the due observance of the provisions of this Act or any regulations made hereunder or any condition subject to which the building permit is granted;
- (b) survey any building or work placed under its supervision; and
- (c) issue certificates of compliance pursuant to section 31 (1) at any stage of the building work.

**31.—**(1) A permit holder or his agent may not proceed from one stage to the next stage of the building work unless he has been issued with a certificate of compliance under this section for the previous stage of the building work.

Certification of compliance.

(2) A permit holder or his agent who seeks the issuance of a certificate of compliance at any stage of the building work shall give to the Local Building Authority notice of compliance in the form prescribed by the Local Building Authority and await inspection and certification before proceeding to the next stage.

(3) A Local Building Authority, may grant a certificate of compliance where after receiving the required notice of compliance, it has caused the building work at the particular stage of the process to be inspected, and the work is found to be in compliance with the building permit.

**32.** The Local Building Authority may establish guidelines to provide for—

Guidelines for monitoring.

- (a) the imposition of conditions on the grant of a building permit;

- (b) the inspection of building works;
- (c) the giving and serving of notices at specified times and stages of the building process;
- (d) authorization for personnel to enter and inspect building construction and works to ensure that the conditions of the permit are being complied with;
- (e) powers to survey buildings and ensure that all relevant codes and regulations are observed; and
- (f) the type of notices that are to be given by a builder.

Notice to be evidence as against builder of intended works.

**33.** Every notice given by a permit holder or his agent pursuant to this Act shall be deemed, in any question relative to any building or building work, to be *prima facie* evidence as against the builder involved of the nature of the building proposed to be built or building work proposed to be done.

Offence of failure to give notice.

**34.** A permit holder or his agent commits an offence if the holder or his agent —

- (a) fails to give any notice required under this Act;
- (b) executes any work prior to giving the required notice.

Power of building official, etc. to enter and inspect building, work, and offence to obstruct.

**35.—(1)** A building official or other authorized person may at all reasonable times during the progress of any building or building work subject to this Act, enter upon premises and inspect the building or building work.

(2) A person commits an offence if the person—

- (a) refuses to admit a building official or other authorized person to inspect a building or building work under subsection (1); or
- (b) refuses or neglects to afford the official or other person all reasonable assistance in the inspection.

Offence of failure to admit to premises for determination of exemption.

**36.—(1)** A building official or other authorized person may at all reasonable times enter and inspect any premises for the purpose of ascertaining whether any buildings erected on the premises are entitled to be treated as exempt from the operation of this Act.

(2) The Building Official or authorized person may do all such things as are reasonably necessary for the purpose of the inspection under subsection (1).

(3) A person commits an offence if the person—

- (a) refuses to admit the building official or authorized person to enter the premises or to inspect any such building; or
- (b) neglects to afford all reasonable assistance in the inspection.

**37.** Where it appears to a Local Building Authority that—

Notice of  
building  
breach.

- (a) the builder;
- (b) the owner;
- (c) the occupier of the land where building work has been carried out or is to be carried out;
- (d) any person who carries out or takes steps to carry out the building work on the land; and
- (e) any other person concerned in the management of the work on the land, as the case may require, has contravened a provision of this Act relating to any building or building work, the Authority may serve on the person a notice of building breach in the prescribed form and manner requiring the person to remedy the breach.

**38.** The notice of building breach shall include the following information—

Contents of  
notice of  
building  
breach.

- (a) the nature of the breach;
- (b) the prescribed penalty for the breach;
- (c) the steps (if any) to remedy the breach; and
- (d) the period within which the steps are to be taken to remedy the breach.

Power of  
Authority to  
enter and  
remedy  
breach.

**39.**—(1) Where any person upon whom a notice of building breach is served fails to comply with any order of a court directing compliance with the notice or any requirement of the notice, the Local Building Authority may act in accordance with subsection (2).

(2) The Local Building Authority may, with such persons, as it may require, enter the premises in relation to which a notice of breach has been issued, and do all such things as may be necessary for enforcing the requisitions of such notice so as to remedy the breach and render the building or work, as the case may be, on the premises in conformity with the requirements of this Act.

Liability for  
penalty and  
expenses.

**40.**—(1) If a notice of building breach given under section 37 is not complied with, the builder and each person on whom it is served shall incur a pecuniary penalty not exceeding fifty thousand dollars a day during every day of the continuance of such non-compliance.

(2) All expenses incurred by a Local Building Authority in carrying out the requirements specified in a notice of a breach that has not been complied with by a builder and in any related enforcement in remedying the breach may, at the instance of the Authority, be recovered from the builder or other person (if not the owner) on whom the order was made, or from the owner of the premises, as a simple contract debt without limit of amount in the Resident Magistrate's Court for the parish in which the building is located or work is being carried out.

(3) Where—

- (a) the owner cannot be found, or is under disability; or
- (b) on reasonable demand by the Authority the owner refuses or neglects to pay the expenses referred to in subsection (2), the Authority may, in accordance with such regulations as may be prescribed, sell the building in respect of which the notice is made, and apply the proceeds of sale in the same manner, as applies in this Act in the case of dangerous structures.

### *Stop Notices*

**41.—**(1) Where it appears to a Local Building Authority, that Stop notices.  
any building work specified in subsection (2) is unauthorized or is hazardous or otherwise dangerous to the public, the Authority, shall serve or cause to be served on any of the persons specified in subsection (3), a stop notice requiring that person to immediately cease the work.

(2) The work referred to in subsection (1) is work—

- (a) which is being carried out in breach of a condition subject to which a building permit was granted; or
- (b) which is being carried out without the grant of a building permit.

(3) A person upon whom a stop notice may be served is—

- (a) the owner or occupier of the land where the work is taking place or has taken place;
- (b) any person who is engaged in the work; or
- (c) any other person appearing to have an interest in the land.

(4) A stop notice—

- (a) shall state—
  - (i) the name of the person to whom it is directed;
  - (ii) the basis on which the stop order is made;
  - (iii) the location at which the work is taking place or has taken place;
  - (iv) the nature of the work;
  - (v) that the notice takes effect from the time it is served; and
  - (vi) the period for which the notice is effective; and



- (b) shall be for a period not exceeding ten days and may be extended for such further periods as the Local Building Authority may determine.

(5) Where a stop notice is served on a person referred to in subsection (3), a copy thereof shall be posted in a conspicuous place—

- (a) on the premises where the relevant work is taking place or has taken place; and
- (b) in a court house, police station or other public place in the parish in which the work is taking place or has taken place.

(6) Where a person suffers any loss resulting from the service of a stop notice, compensation shall only be payable where in any action brought by him against a Local Building Authority, he expressly alleges that the service of the notice was done without reasonable or probable cause and at the trial of such action he proves such allegation.

(7) Any person who fails to comply with a stop notice commits an offence and shall be liable on summary conviction before a Resident Magistrate to the penalty specified in respect thereto in the First Schedule.

First  
Schedule.

#### *Enforcement Notice*

Enforcement  
notice.

**42.—**(1) If it appears to a Local Building Authority that—

- (a) any building work is being, has been or is proposed to be carried out, without the grant of a building permit; or
- (b) any conditions subject to which a building permit was granted has not been complied with, then subject to any directions given by the Minister and to subsection (2), the Local Building Authority shall serve a notice under this section (hereinafter referred to as an “enforcement notice”) on each of the following, namely—
  - (a) the owner and occupier of the land where the building work has been carried out or is to be carried out;

- (b) any person who carries out or takes steps to carry out the building work on the land; and
- (c) any other person concerned in the management of the work on the land.

(2) An enforcement notice shall specify the work which is alleged to have been or perceived to be carried out without the grant of permission or, as the case may be, the matters in respect of which it is alleged that any such conditions have not been complied with, and may require such steps as may be specified in the notice to be taken within such period as may be *so* specified for restoring the land to its condition before the work was carried out, or for securing compliance with the conditions, as the case may be.

(3) In particular, an enforcement notice—

- (a) may, for the purpose specified in subsection (2) require—
  - (i) the demolition or alteration of any buildings or works;
  - (ii) the discontinuance of any use of land; or
  - (iii) the carrying out on land of any building work or other operations; and
- (b) shall state that any person upon whom an enforcement notice is served is prohibited from continuing or carrying out any building work or operations or using the land in respect of which the notice is served.

(4) Where an enforcement notice is served under subsection (1), the Local Building Authority shall—

- (a) cause a copy of the enforcement notice to be posted in a conspicuous place on the land where the work is being carried on;
- (b) cause a notice in accordance with subsection (5) to be displayed in a conspicuous place in a court house, police station, post office, postal agency or other public place

in the parish in which the building work is being carried out.

(5) The notice referred to in subsection (4) (b) shall contain information—

- (a) as to the place where an enforcement notice may be inspected and a copy obtained; and
- (b) that any interested person may make representations in respect of the enforcement notice to the Local Building Authority.

(6) The Local Building Authority may, from time to time, cause a list of enforcement notices to be published in a daily newspaper circulated in Jamaica or on the Internet.

(7) In subsection (5) (b) “interested person” means the owner or occupier of any premises abutting, adjoining or adjacent to the premises in respect of which the enforcement notice is served.

(8) An enforcement notice shall take effect at the expiration of three days after the service thereof, so, however, that where an appeal is lodged pursuant to section 71, any work to which the enforcement notice relates shall cease.

Authority's  
power to enter  
and remedy  
breach.

**43.—**(1) If within the period specified in an enforcement notice, or within such extended period as the Local Building Authority may allow, any steps required by the notice to be taken (other than the discontinuance of any use of land) that have not been taken, the Authority may—

- (a) enter on the land and take those steps; and
- (b) recover as a simple contract debt in the Resident Magistrate’s Court of the parish in which the land is situated, from the person who is then the owner of the land, any expenses reasonably incurred by the Authority in that behalf.

(2) If the owner, having been entitled to appeal to the Tribunal under section 71, fails to lodge an appeal, he shall not be

entitled in proceedings under this subsection to dispute the validity of the action taken by the Local Building Authority upon any ground which could have been raised by such appeal.

(3) Any expenses incurred by the owner or occupier of any land for the purpose of complying with an enforcement notice, and any sums paid by the owner of any land under subsection (1) in respect of the expenses of the Local Building Authority in taking steps required to be taken by such notice, shall be deemed to be incurred or paid for the use and at the request of the person by whom the building work was carried out.

(4) Where, by virtue of an enforcement notice, any use of land is required to be discontinued, or any conditions are required to be complied with in respect of the carrying out of any building work thereon, then if any person, without the grant of a building permit or other permission in that behalf under Part IV, uses the land or causes or permits to be carried out such building work, in contravention of the notice, he commits an offence and is liable on summary conviction before a Resident Magistrate to a penalty in respect thereto specified in the First Schedule.

First  
Schedule.

### *Injunction*

#### **44.—(1) Where—**

Application  
for injunction.

- (a) a person on whom an enforcement notice is served under section 42 fails to comply with the provisions of that notice within the period specified therein; or
- (b) the relevant Local Building Authority considers it necessary or expedient for any perceived or apprehended breach of this Act to be restrained,

the relevant Local Building Authority may apply to the Court for an injunction, whether or not the Authority has exercised or is proposing to exercise any other power under this Act.

(2) On an application under subsection (1), the Court shall—

- (a) issue a summons requiring the builder so in default to appear before the Court; and

- (b) if upon the appearance of the builder, or in his absence upon due proof of the service of such summons, it appears to the Court that the requisitions made by the notice or any of them are authorized by this Act, make such order as it considers appropriate on such builder requiring him to comply with the requisition of such notice, or any of such requisitions that may in the opinion of the Court be authorized by this Act, within a time to be named in such order.

(3) The Court may issue an injunction against a person whose identity is unknown.

(4) An injunction granted under this section may order the builder, the owner or occupier of the land where the building work has been carried out or is to be carried out, any person who carries out or takes steps to carry out the building work on the land and any other person concerned in the management of the work on the land, as the case may require, to—

- (a) demolish or alter any building, or part thereof, or any building work in such manner as the Building Surveyor shall direct;
- (b) discontinue any use of the land;
- (c) carry out on the land any building work or other operation;
- (d) pay the costs and expenses associated with the application; or
- (e) perform such other act as may be just.

#### *Emergency Order*

Emergency  
order.

**45.** —(1) Where a building official is of the opinion that the condition or the use of a building or the land on which the building work is being carried out or proposed to be carried out is hazardous or otherwise dangerous to members of the public the building official may serve or cause an emergency order to be served on the owner of and the builder carrying out work on a building or land.

(2) An emergency order may—

- (a) require the owner of and the builder carrying out work on a building or land to—
  - (i) voluntarily evacuate the building or land;
  - (ii) mandatorily evacuate the building or land;
  - (iii) not conduct or not allow the conduct of a public activity or immediately cease to conduct a public activity;
  - (iv) stop the building work or in the alternative carry out building work or other work necessary to make the building or land safe;
- (b) prohibit the occupation or use of a public building or place for a specified period.

**46.** An emergency order remains in force until it is complied with or until it is cancelled by the Local Building Authority.

Duration  
emergency  
order.

**47.** A Local Building Authority may cancel an emergency order by written notice given to the owner and to the occupier of the building, or land concerned if the circumstances giving rise to the making of the order have changed.

Cancellation  
of emergency  
order.

**48.—**(1) Where an emergency order is not complied with, the Local Building Authority may authorize the entry and taking of relevant steps to remedy the problem specified in the order.

Authority may  
enter where  
emergency  
order not  
complied.

(2) The Local Building Authority may recover as a simple contract debt (without limit of amount) in the Resident Magistrate's Court of the parish in which the land is situate, from the person who is then the owner of the land or the builder, any expenses reasonably incurred by the Authority in taking the remedial steps.

### *Access*

**49.—**(1) If provision is being made for the construction or alteration of any building to which members of the public are to be admitted, whether for free or on payment of a charge, reasonable and adequate provision by way of access to the building and its

Access for  
persons with  
disabilities.  
display of  
symbol of  
access.

facilities shall be made for persons with disabilities who may be expected to—

- (a) visit or work in that building; and
- (b) carry out normal activities and processes in that building.

(2) If any provision required by subsection (1) is made at a building in compliance with that section, a notice or sign that indicates, in accordance with the international symbol of access, that provision is made for the needs of persons with disabilities shall be displayed outside the building or so as to be readily visible from outside of it.

#### PART VI. *Dangerous Structures*

Interpretation  
of Part VI.

**50.** In this Part “dangerous structure” means any building, wall or other structure that is certified by a Building Surveyor to be in such a condition as to constitute—

- (a) a danger to persons or property; or
- (b) a nuisance,

and includes anything affixed to or projecting from any building, wall or other structure.

Authority to  
cause survey  
of dangerous  
structure.

**51.—**(1) Where, by notification thereto or otherwise the Local Building Authority is satisfied that any structure is in a dangerous state so as to be a dangerous structure or likely to so become, the Authority shall, subject to subsection (2), require the Building Surveyor to survey the structure.

(2) The Building Surveyor shall notify the Local Building Authority, as soon as possible, upon becoming aware of any structure that is or appears to be likely to become a dangerous structure.

Surveyor's  
certificate.

**52.** Upon the completion of his survey under section 51 the Building Surveyor, shall submit to the Local Building Authority a certificate stating his opinion as to the condition of the structure surveyed.

**53.** If the certificate under section 52 is to the effect that the structure is not a dangerous structure, then no further proceedings shall be had in respect thereof; but if it is to the effect that the structure is a dangerous structure, then the Local Building Authority shall—

Proceedings after certificate of dangerous structure.

- (a) cause the same to be shored up or otherwise secured, and a proper board or fence to be put up for the protection of members of the public; and
- (b) cause notice in writing to be given to the owner or occupier of such structure requiring him forthwith to take down, secure or repair, the same as the case requires.

**54.—**(1) Where the owner or occupier to whom notice under section 53 (b) is given, fails to comply with the requirements of the notice within the time specified in the notice, or in the absence of such specification, as soon as practicable, then the Local Building Authority may act in accordance with subsection (2).

Authority to act where owner fails.

(2) The Local Building Authority may enter the premises where the structure is situated and cause all or so much of the dangerous structure to be taken down, repaired, or otherwise secured in such manner as the Authority considers to be appropriate.

**55.** The Local Building Authority may recover as a simple contract debt (without limit of amount) in the Resident Magistrate's Court of the parish in which the building structure is situated, from the person who is then the owner of the building structure or, in the absence or unavailability of the owner, any lessee of the building structure or other person who may be so liable, the expenses of the carrying out, in relation to the building structure, of any activity mentioned in section 54 (2).

Recovery of expenses by action.

**56.—**(1) If the owner—

- (a) cannot be found;
- (b) is incapacitated;
- (c) refuses on demand or neglects to pay the expenses incurred by the Authority under section 54,

Power of sale to recover expenses.



the Authority may, after giving three months' notice of its intention to do so, by posting a printed or written notice in a conspicuous place on the structure in respect of which or part of which they have incurred expense, or on the land whereon it stands, sell the structure or land any components thereof at such time and in such manner as it thinks fit.

(2) The Local Building Authority shall, after deducting from the proceeds of such sale the amount of all expenses incurred by the Authority under section 54, pay over the surplus (if any) to the owner and, subject to subsection (2), in the absence of any claim within one month of the sale purporting to be from an owner, then the same shall be placed to the credit of the owner (describing him so far as the Authority can) in a duly licensed financial institution in Jamaica.

(3) The owner or any other person claiming entitlement to the surplus may apply to the Resident Magistrate's Court for the relevant area for payment thereof.

Power of court  
to order  
removal from  
dangerous  
structure.

**57.** In cases where a structure has been certified by the Local Building Authority to be a dangerous structure, the Resident Magistrate's Court for the area in which the structure is located, if having regard to the certificate, is satisfied as to the dangerous state of the structure, may, without notice upon an application by the Building Surveyor, or on its own motion, direct that any occupant of the structure be forthwith removed therefrom by a Constable.

#### PART VII. *Party Structures*

Building  
owner and  
adjoining  
owner.

**58.** In this Part, references to "building owner" are references to such one of the owners of premises separated by or adjoining to any party structure as is desirous of executing any work in respect to such party structure, and references to "adjoining owner" are to an owner of the other premises.

Right of  
building  
owner, party  
structure.

**59.** The building owner has the following rights (hereinafter called "party rights") in relation to any party structure, namely —

- (a) a right to make good or repair any party structure that is defective or out of repair;

- (b) a right to pull down and rebuild any party structure that is so far defective or out of repair, or of such unsuitable or dangerous materials, as to make it necessary or desirable to pull down the same;
- (c) a right to pull down any timber or other partition that divides any building or premises, and is not conformable with any regulations under this Act, and to build instead a party wall or other party structure conformable thereto;
- (d) in the case of buildings having rooms or stories the property of different owners intermixed, a right to pull down such of the said rooms or stories, or any part thereof, as are not built in conformity with this Act, and to rebuild the same in conformity with this Act;
- (e) a right to raise any party structure permitted by this Act to be raised, or any external wall built against such party structure, upon condition of making recompense for all damage occasioned thereby to the adjoining premises, or to the internal finishings and decorations thereof, and of carrying up to the requisite height all flues and chimney stacks belonging to the adjoining owner on or against any such party structure or external wall;
- (f) a right to pull down any party structure that is not of sufficient strength for any buildings intended to be built, and to rebuild such a structure of sufficient strength for the intended building, subject to the building owner making compensation for all damage occasioned thereby to the adjoining premises, or to the internal finishing and decorations thereof;
- (g) a right to cut into any party structure subject to the building owner making compensation for all damage occasioned to the adjoining premises by such operation;
- (h) a right to cut away any structure projecting from any party wall, in order to erect any external wall against such party wall, or for any other purpose, subject to the building

owner making compensation for all damage occasioned to the adjoining premises by such operation;

- (i) a right to cut away or take down such parts of any wall or building of an adjoining owner as may be necessary in consequence of such wall or building overhanging the ground of the building owner, in order to erect an upright wall against the same, on condition of making recompense for any damage sustained by the wall or building by reason of such cutting away or taking down; and
- (j) a right to perform any other necessary works incidental to the connection of any party structure with the premises adjoining thereto.

Rights of adjoining owner, party structure.

**60.**—(1) Where the building owner proposes to exercise any of the rights under section 59, the adjoining owner may require the building owner to build works on the party structure, for the convenience of the adjoining owner.

(2) The building owner shall comply with the requisition of the adjoining owner in any case where the execution of the required works —

- (a) is in conformity with the requirements of or under this Act; and
- (b) is not likely to be injurious to, or cause the building owner unnecessary inconvenience, or unnecessary delay in the exercise of his right; and any difference that arises between any building owner and adjoining owner in respect of the execution of such works as aforesaid shall be determined in the manner in which differences between building owners and adjoining owners are hereinafter directed to be determined.

Rules as to exercise of rights by building owners and adjoining owners.

**61.**—(1) The rules specified in this section shall be observed with respect to the exercise by building owners and adjoining owners of their respective rights, namely that—

- (a) subject to paragraph (b), a building owner may not exercise a party right, unless he has given to the adjoining

owner at least three months' notice in writing, stating the nature of the proposed work and the time at which such work is proposed to be commenced, which notice may be delivered personally, or by registered post addressed to the owner at his last known place of address;

- (b) paragraph (a) does not apply where—
  - (i) the adjoining owner has given consent to the exercise for the right; or
  - (ii) the party structure is dangerous, and accordingly the provisions for dangerous structures shall apply;
- (c) a building owner shall not exercise any party right in a manner or at a time as to cause unnecessary inconvenience to the adjoining owner;
- (d) upon the receipt of the notice the adjoining owner may require the building owner to build, or may himself build, on any such party structure, any works to which the adjoining owner is entitled under section 60; and
- (e) any requisition under paragraph (d) shall be in writing and shall be delivered personally to the building owner within one month after the date of the notice being given by the building owner, or be sent by post in a registered letter addressed to him at his last known place of residence and it shall—
  - (i) specify the works required by the adjoining owner for his convenience;
  - (ii) if necessary, be accompanied with explanatory plans and drawings;
  - (iii) estimate the cost to be incurred.

(2) The following rules apply in relation to differences arising between the respective owners—

- (a) if either owner does not, within fourteen days after the delivery to him of any notice or requisition, express his

consent thereto, he shall be deemed to have dissented therefrom, and thereupon a difference shall be treated as having arisen between the building owner and adjoining owner;

- (b) in all cases not hereby specially provided for, where a difference arises between a building owner and adjoining owner in respect of any matter arising under this Act, unless both parties concur in the appointment of a sole surveyor they shall each appoint a surveyor, and the two surveyors so appointed shall select a third surveyor to constitute a panel;
- (c) the sole surveyor or the panel of three surveyors, or any two members of the panel, shall settle any matter of dispute between the owners, and may by his or their award determine the right to do, and the time and manner of doing, any work, and generally any other matter arising out of or incidental to such difference; but any time so appointed for doing any work shall not commence until after the expiration of the period of three months referred to in paragraph (1) (a);
- (d) any award given by the sole surveyor or the panel of surveyors, or any two members of the panel, shall be conclusive and shall not be questioned in any Court, except that either party to the difference may appeal therefrom to the Resident Magistrate's Court for the parish within fourteen days from the date of the delivery of such award as aforesaid, and the Court may, subject as hereinafter mentioned, rescind or modify the award so given in such manner as it thinks just; or
- (e) if either party to the difference makes default in appointing a surveyor for ten days after notice has been given to him by the other party in manner aforesaid to make such appointment, the party giving the notice may make the appointment in the place of the party so making default;

- (f) the costs incurred in obtaining any such award as aforesaid shall be paid by such party as such surveyor or three surveyors, or any two of them, may determine.

(3) In this section, “surveyor” includes a master builder.

**62.**— (1) Subject to subsection (2), where a building owner is entitled, under this Act, to execute any building work on any premises, he and any employee or agent, may during normal working hours enter on any premises for the purpose of executing such work, removing any furniture, or doing any other thing that may be necessary.

Building owner may enter premises to execute work.

(2) If the premises are closed, any person specified in subsection (1) may, accompanied by a constable, break open any doors in order to make such entry, and any owner or other person that hinders or obstructs any person so specified or wilfully damages or injures the said work, commits an offence.

**63.** An adjoining owner may, if he thinks fit, by notice in writing given by himself or his agent, require the building owner, before commencing any work which he may be authorized by this Act to execute or give such security as may be agreed upon, or in case of difference as may be settled by the Resident Magistrate for the parish, for the payment of all such costs and compensation in respect of such work as may be payable by such building owner.

Security to be given by building owner if required.

**64.**—(1) The rules specified in this section shall be observed as to expenses in respect of any party structure.

expenses in respect of any party.

(2) In relation to expenses to be borne jointly by the building owner and adjoining owner—

- (a) if any party structure is defective or out of repair, the expense of making good or repairing the same shall be borne by the building owner and adjoining owner in due proportion, regard being had to the use that each owner makes of such structure;
- (b) if any party structure is pulled down and rebuilt by reason of its being so far defective or out of repair as to make it

necessary or desirable to pull down the same, the expense of pulling down and rebuilding shall be borne by the building owner and adjoining owner in due proportion, regard being had to the use that each owner makes of such structure;

- (c) if any timber or other partition dividing any building or premises is pulled down in exercise of the right hereinbefore vested in a building owner, and a party structure is built instead thereof, the expense of building such party structure, and also of building any additional party structures that may be required by reason of such partition having been pulled down, shall be borne by the building owner and adjoining owner in due proportion, regard being had to the use that each owner makes of such party structure, and to the thickness rendered necessary to such party structure by the respective buildings parted thereby;
- (d) if any rooms or stories, or any part of rooms or stories, the property of different owners and intermixed in any building, are pulled down in pursuance of the right hereinbefore vested in any building owner, and rebuilt in conformity with this Act, the expense of such pulling down and rebuilding shall be borne by the building owner and adjoining owner in due proportion, regard being had to the use that each owner makes of such rooms or stories in relation to expenses to be borne by building owner;
- (e) if any party structure or external wall built against the same is raised in pursuance of the power vested in any building owner, the expense of raising the same, and making good all such damage, and of carrying up to the requisite height all such flues and chimneys, as are hereinbefore required to be made good and carried up, shall be borne by the building owner;

- (f) if any party structure which is of proper materials and sound, and not so far defective or out of repair as to make it necessary or desirable to pull down the same, is pulled down and rebuilt by the building owner, the expense of pulling down and rebuilding the same, and of making good all such damage as is hereinbefore required to be made good, shall be borne by the building owner;
- (g) if any party structure is cut into by the building owner, the expense of cutting into the same, and of making good any damage required to be made good shall be borne by the building owner; or
- (h) if any footing, chimney breast, jambs or floor, is cut away in pursuance of the powers vested in any building owner, the expense of such cutting away, and of making good any damage required to be made good, shall be borne by the building owner.

**65.** Within one month after the completion of any work which any building owner is by this Act authorized or required to execute, and the expense of which is in whole or in part to be borne by an adjoining owner, such building owner shall deliver to the adjoining owner an account in writing of the expense of the work, specifying any deduction to which such adjoining owner or other person may be entitled in respect of old materials, or in other respects; and every such work as aforesaid shall be estimated and valued at fair average rates and prices according to the nature of the work and the locality and the market price of materials and labour at the time of the work.

Duty to deliver expenses amount to adjoining owners.

**66.** At any time within one month after the delivery of such account the adjoining owner, if dissatisfied therewith, may declare his dissatisfaction to the party delivering the same, by notice in

Adjoining owner disputing amount.



writing given by himself or his agent, and specifying his objections thereto; and upon such notice having been given a difference shall be deemed to have arisen between the parties, and such difference shall be determined in the manner provided for the determination of differences between the building and adjoining owners.

Amount deemed to be accepted where no dispute.

**67.** If within the period of one month the adjoining owner specified in section 65 does not declare his dissatisfaction with the amount of the expenses he shall be deemed to have accepted the same, and shall pay the same on demand to the party delivering the account, and if he fails to do so the amount so due may be recovered as a debt.

Liability of adjoining owner for certain expenses.

**68.** Where any building owner has incurred any expenses on the requisition of an adjoining owner, the adjoining owner making such requisition shall be liable for all such expenses and in default of payment the same may be recovered from his as a debt.

Offences where building owner fails to perform certain conditions.

**69.** Where any building owner is by this Part liable to make good any damage he may occasion to the property of the adjoining owner by any works authorized to be executed by him, or to do any other thing upon condition of doing which his right to execute such works is hereby limited to arise, and such building owner fails within a reasonable time to make good such damage, or to do such thing, he commits an offence and shall be liable on summary conviction before a Resident Magistrate to the penalty specified in, relation thereto in the First Schedule.

First Schedule.

### Part VIII. *Appeals*

Establishment of Appeal Tribunal.

**70.—**(1) There is hereby established for the purposes of this Act a tribunal to be known as the Appeal Tribunal.

Second Schedule.

(2) The provisions of the Second Schedule shall have effect as to the constitution and procedure of the Appeal Tribunal.

Jurisdiction of Tribunal.

**71.—**(1) There shall be a right of appeal to the Appeal Tribunal against a decision given by the Local Building Authority or any other person in the administration of this Act, to—

- (a) refuse an application for a permit, certificate, notice, order or other authority under this Act; or

- (b) suspend or revoke a permit, certificate, notice, order or other authority under this Act.

(2) The Appeal Tribunal shall, consequent on the lodging of an appeal under subsection (1)—

- (a) within twenty-one days of lodging, receive, hear and examine the evidence relating to the appeal;
- (b) within thirty days of the date of lodging, issue a written decision; and
- (c) within sixty days of the date of lodging, issue written reasons for the decision.

(4) An appeal shall not in its entirety exceed three months except in extenuating circumstances.

(5) Every decision of the Appeal Tribunal shall be final in relation to findings of fact.

**72.** —(1) The Appeal Tribunal may, at the hearing of an appeal against a decision in respect of which the appeal is brought— Conduct of appeal.

- (a) dismiss the appeal and affirm the decision;
- (b) allow the appeal and set aside the decision;
- (c) set aside the decision and substitute therefor such other decision as the Tribunal may think proper;
- (d) allow the appeal and direct that the proceedings in respect of which the decision (the subject of the appeal) was made, be conducted afresh either by the person who made that decision or such other person as the Tribunal may decide; or
- (e) make such order as to costs and fees as it deems necessary.

(2) Before determining an appeal, the Appeal Tribunal shall give the applicant, who may be represented by an Attorney-at-Law or any other person, the opportunity to be heard by the Tribunal.

*Part IX. Regulation of Building Practitioners*

Establishment  
of Building  
Practitioners  
Board.

**73.**—(1) For the purposes of this Act, there shall be established a body to be called the Building Practitioners Board.

Third  
Schedule.

(2) The provisions of the Third Schedule shall have effect with respect to the constitution and procedures of the Board and otherwise in relation thereto.

Functions of  
the Board.

**74.**—(1) The functions of the Building Practitioners Board shall be to—

- (a) assess building practitioners as having certain competence, skills and knowledge relevant to building work;
- (b) to license building practitioners to perform restricted building work;
- (c) establish guidelines regarding licensing systems for building practitioners;
- (d) review and monitor the conduct of licensed building practitioners;
- (e) make recommendations about the qualifications for licensing and other issues relating to building practitioners;
- (f) carry out any other functions conferred upon it by this Act or the regulations.

(2) The Building Practitioners Board shall have power—

- (a) to appoint examiners to conduct such examinations in respect of persons applying for licences as building practitioners as may, from time to time, be necessary under the provisions of this Act;
- (b) to prescribe the procedure to be followed in respect of disciplinary proceedings against building practitioners in relation to professional conduct; and

- (c) to do all such things as may appear to it to be necessary or desirable for carrying out its functions under this Act.

Registrar of  
Licensed  
Building  
Practitioners.

**75.** The Minister shall designate, by general notice, a person to be the Registrar of Licensed Building Practitioners who shall also be secretary of the Board.

Register of  
Licensed  
Building  
Practitioners.

**76.—(1)** The Building Practitioners Board shall cause the Registrar to keep and maintain up-to-date a register (to be known as the Register of Licensed Building Practitioners) of the names, addresses, qualifications and such other particulars as may be prescribed of each person who is registered as building practitioner pursuant to this Act.

(2) The Register of Licensed Building Practitioners shall have different parts for different categories of practitioners as determined by the Board.

(3) The Register of Licensed Building Practitioners shall be kept at the offices of the Board and shall be open to inspection by any member of the public at all reasonable times.

(4) A copy of the Register of Licensed Building Practitioners shall be published in the *Gazette* by the Registrar at such times and in such manner as may be prescribed.

(5) For the purposes of this Act, a person is registered as a building practitioner if his name appears in the Register of Licensed Building Practitioners.

Corrections of  
registers.

**77.—(1)** It shall be the duty of the Registrar of Licensed Building Practitioners—

- (a) to recommend to the Building Practitioners Board the removal of any entry from the Register;
- (b) to restore to the Register any entry which the Board under subsection (3) directs him to restore;
- (c) to correct in accordance with the Board's directions, any entry in the Register which the Board directs him to correct as being in the opinion of the Board an entry which was incorrectly made; and

- (d) to make, from time to time, any necessary alterations in any of the particulars mentioned in section 76.

(2) If the Registrar—

- (a) sends by post to any person registered under this Act, a registered letter addressed to him at his address appearing in a register, enquiring whether he has ceased to practise teaching or has changed his address and receives no reply to that letter within three months from the date of posting it; and
- (b) upon the expiration of that period sends in like manner to that person a second similar letter and receives no reply to that letter within three months from the date of posting it, the Board may direct the Registrar to remove from the Register the name of that person.

(3) The Board may at any time direct the Registrar to restore to the register any name removed therefrom under subsection (2).

(4) Where the Council takes any action under subsection (1), it shall as soon as practicable, by notice in writing, inform the person concerned, or in the case where the person concerned is deceased, his next of kin, of any action taken and the reasons for such action.

(5) A licensed building practitioner shall, as soon, as practicable, inform the Board by notice in writing of-

- (a) any errors in the register of which he is aware as it relates to his registration; and
- (b) any change in the information entered in the register as it relates to him.

Application  
for licensing.

**78.—**(1) Every person seeking to be licensed as a building practitioner shall submit an application for licensing as such in the prescribed form signed by the applicant and delivered to the Registrar and shall set out the grounds on which and the category in which the applicant claims to be entitled to licensing.

(2) The Board may require such evidence of identity or such verification of any matter alleged by the applicant or such further information relating to the application as it thinks requisite.

(3) Every application under this section shall be accompanied by the prescribed fee.

**79.** —(1) For the purposes of licensing under this Act, the Board may require any applicant to submit to such examination relating to his competence as a building practitioner as the Board thinks necessary. Licensing.

(2) If the Board is not satisfied as to the eligibility of the applicant to be licensed under this Act or as to his eligibility to be licensed in the category in which he claims to be entitled to be licensed, it shall refuse to licence the applicant or, as the case may be, in that category and shall notify him in writing accordingly and shall inform him of the right of appeal conferred by section 71.

(3) Every person licensed as a building practitioner under this Act shall be entitled to carry out building work in the category in which he is licensed in Jamaica and to demand and recover any reasonable charges for services rendered by him in that capacity.

**80.** Every person shall be entitled to be licensed as a building practitioner under this Act, in such category as the Board thinks appropriate, if the person satisfies the Board— Qualifications  
for licensing.

- (a) that he is a national of Jamaica or of another CARICOM Member State or is ordinarily resident in Jamaica;
- (b) that he is of good character and reputation; and
- (c) that he fulfils one or more of the following requirements, namely—
  - (i) that he is a member of, or holds a certificate granted by an institution, or other body recognized by the Board as having competence to approve qualification as a building practitioner or as a building practitioner in a category of building work, as the case may be; and

- (ii) that he is the holder of a certificate recognized by the Board as indicating some competence in some category of building work and has attained the minimal practical experience prescribed by the Board in that category of building work (at least one year in Jamaica or in any Member State) and has passed such examinations as may be required by the Board.

Special  
licence.

**81.** —(1) Notwithstanding anything to the contrary, any person who comes within any of the categories of persons may, on application to the Board in the prescribed manner and on payment of the prescribed fee, be specially licenced as a building practitioner in such category as may be approved by the Board for such time and on such conditions as the Board may with the approval of the Minister specify.

(2) The Registrar shall enter in a separate part of the register the names of all persons specially licensed under this section.

(3) The Registrar shall issue to every person specially licensed under this section a licence in the prescribed form which, to the extent specified therein, shall entitle that person to carry out building work practise as a registered building practitioner.

Temporary  
licence.

**82.** —(1) Where the Board is satisfied, upon the application of any person—

- (a) is neither ordinarily resident in Jamaica, a national of Jamaica or a citizen of another CARICOM Member State;
- (b) is or will be temporarily visiting Jamaica for the purpose of practising the vocation of building at an institution or place in Jamaica in the capacity of a teacher or a research student or as the holder of a fellowship or other study programme or under a foreign assistance programme or in such other circumstances as the Board may approve; and

- (c) possesses sufficient knowledge and experience for the efficient practice of building in the capacity aforesaid, the Board shall, on receipt of the prescribed fee, grant temporary registration to that person.

(2) The Board may, upon application and payment of the prescribed fee, grant a temporary licence to any person, not ordinarily resident in Jamaica and not being a person to whom the provisions of subsection (1) applies, who satisfies the Board that he is or will be temporarily visiting Jamaica for the purpose of practising the vocation of building and is otherwise qualified under paragraphs (b) and (c) of section 80.

(3) A temporary licence shall entitle the holder to practise the vocation of building in such institution or place or in such circumstances and for such period in the first instance or any subsequent instance (not exceeding in the first instance two years) and subject to such terms and conditions as may be specified in the licence at the direction of the Board.

(4) The names, addresses, qualifications and such other particulars as may be prescribed of all persons to whom temporary licences are issued under this section shall be entered in a separate part of the register.

(5) The Board may, from time to time, in its discretion, extend the period or vary the terms and conditions specified in any temporary licence.

(6) The Board shall have power to cancel, without notice, any temporary licence.

(7) During the period specified in any temporary licence or any extension thereof, the holder shall, unless the licence has been cancelled, be deemed for the purposes of this Act to be a licensed building practitioner.

**83.** Every person licensed under this Act who, subsequent to his having obtained a licence, obtains any degree, qualification or other designation relevant to the building work, shall be entitled, on

Additional  
qualifications.



payment of the prescribed fee, to have such degree, qualification or designation inserted in the register in substitution for or in addition to those previously entered.

Duty of  
Registrar  
regarding  
register.

**84.—**(1) It shall be the duty of the Registrar—

- (a) to remove from the register any entry which the Board, pursuant to this Act, directs him to remove;
- (b) to restore to the register any entry which the Board, pursuant to this Act, directs him to restore;
- (c) to correct, in accordance with the Board's direction, any entry in the register which the Board directs him to correct as being in the opinion of the Board, an entry which was incorrectly made;
- (d) to remove from the register, with the approval of the Board, the name of any person who has died or who, not being a national of Jamaica or of another CARICOM Member State, has, for a period of at least one year, ceased to be ordinarily resident in Jamaica or who has been issued with a temporary licence which has expired or has been cancelled or who, in accordance with any of the provisions of this Act, ceases to be a licensed building practitioner;
- (e) to make, from time to time, any necessary alterations in any of the particulars mentioned in subsection (1) of section 76.

(2) If the Registrar—

- (a) sends by post to any person licensed under this Act a registered letter, addressed to him at his address appearing in the register, enquiring whether he has ceased to perform building work, or has changed his address and receives no reply to that letter within three months from the date of posting; and
- (b) upon the expiration of the period aforesaid sends in like manner to that person a similar letter and receives no

reply to either letter within three months of the date of the second posting, the Board may direct the Registrar to remove from the register the name of that person.

(3) The Board may direct the Registrar to restore to the register any name removed there from pursuant to this section.

**85.**—(1) No person other than a licensed building practitioner shall be entitled to recover in any action any fee, charge, gratuity, remuneration or other reward for services rendered or offered as a licensed building practitioner. *Entitlement to recover fees, etc.*

(2) Nothing in subsection (1) shall prevent any person from taking any action mentioned in that subsection in respect of anything lawfully done while such person was a licensed building practitioner.

**86.**—(1) Subject to section 81, with effect from such date as the Minister may, by order, specify, no person unless he is a licensed building practitioner or a registered building professional or is otherwise exempt under the Act shall, in Jamaica— *Prohibitions.*

- (a) carry out building work;
- (b) take or use, in relation to himself, the designation “builder” or “building practitioner” either alone or in conjunction with any other words or initials in such manner as to imply that he is qualified to carry out building work; or
- (c) take or use, in relation to himself, any designation, title, name, initials or description indicating or implying that he is entitled to carry out building work.

(2) A person shall be deemed to carry out building work if, by verbal claim, sign, advertisement, letterhead, card or in any other way, represent himself to be a licensed building practitioner or, through the use of some other title, implies that he is a building practitioner or that he is licensed under this Act or holds himself out as being able to perform or does perform any carry out building work.

(3) For the purposes of this Act, a person, not being a licensed building practitioner, does not carry out building work by reason only that:

- (a) he does so in the course of his duties as an employee of a licensed building practitioner; or
- (b) being an employee of the Government who does not fall within the prescribed provisions, he does so in the course of his duties as such an employee.

(4) Any person who contravenes the provisions of subsection (1) commits an offence and shall be liable on summary conviction before a Resident Magistrate to the penalty specified in relation thereto in the First Schedule.

Improper  
licensing.

**87.** If any person who is licensed as a building practitioner has, in the opinion of the Board, improperly obtained such licence, the Board shall have power—

- (a) where the licence was obtained on the basis of any statement, information or document supplied by that person which he knew at the time to be false, to cancel the licence and to refuse to issue a licence on any subsequent application; and
- (b) where the licence was obtained on any basis other than that specified in paragraph (a), to require the licensed person to submit, within a period of three months of being so required or such longer period as the Board may permit, a new application in accordance with the provisions of this Act and, if he fails to do so, to cancel such licence.

#### *Building Advisory Council*

Establishment  
of Building  
Advisory  
Council.

**88.—**(1) For the purposes of this Act, there is hereby established a body to be called the Building Advisory Council.

(2) The Building Advisory Council—

- (a) shall consist of such number of persons as the Minister thinks fit who are knowledgeable and experienced in matters relating to buildings and building work; and

(b) may regulate its own proceedings.

**89.**—(1) The functions of the Building Advisory Council shall be to advise the Minister on—

Functions of  
Building  
Advisory  
Council.

- (a) matters of general policy relating to the building industry;
- (b) the administration of this Act and any regulations made hereunder;
- (c) the impact of this Act on any other Act;
- (d) any matter referred to it by the Minister; and
- (e) any other functions conferred by or under this or any other Act.

(2) In the performance of its functions under subsection (1) the Building Advisory Council may—

- (a) recommend the initiation of general national policies, strategies, plans and programmes for consideration by the Minister to ensure integration of the building, planning and subdivision processing and on all matters related to the building industry; or
- (b) recommend to the Minister the establishment of standing or *ad hoc* Advisory Committees to undertake specific tasks.

#### Part X. *Miscellaneous*

**90.**—(1) No building official shall be personally liable for any act or default of the Local Building Authority done or omitted to be done in good faith in the exercise of any power, or in the performance of any function, conferred or imposed by or under this Act.

Protection of  
building  
officials.

(2) Where any building official shall be exempt from liability by reason only of the provisions of this section, the Local Building Authority shall be liable to the extent of the building official.

**91.**—(1) Subject to section 92, the Local Building Authority, may make regulations generally for the effective administration and

Regulations.

enforcement of the Act and the Code and notwithstanding the generality of the foregoing the regulations may make provision for—

- (a) the manner of service of any notice required under Act;
- (b) the fees and charges to be paid in respect of any matter required for purposes of this Act, including—
  - (i) prescribing the circumstances under which fees or charges are to be paid;
  - (ii) prescribing the circumstances in which refunds are payable; and
  - (iii) prescribing the manner, place and process for payment of fees or charges;
- (c) the manner and forms of licensing of building practitioners and recognition of building professionals;
- (d) the performance of the functions, the exercise of the powers and discharge of the duties of the Local Building Authority under this Act;
- (e) the classification of buildings and building work;
- (f) the establishment of different grades for building practitioners and specifying their respective powers and duties;
- (g) the form, procedures for the issue of, validity and conditions as to permits and licences;
- (h) the keeping of records;
- (i) the making of reports by licensees;
- (j) procedures for the renewal and revocation of licences;
- (k) specifying timelines within which different categories of applications will be processed, conditions for meeting such timelines and the recourse available to applicants if timelines are not met; and

- (l) requirements regarding notice to the public concerning the intention to seek approval to erect or change the use of a building and for concerned persons to register their interests or objections and to be heard in respect of such objections;
- (m) enforcement and compliance measures;
- (n) regulating activities related to the building process, including—
  - (i) the establishment of site offices;
  - (ii) establishment of storage facilities;
  - (iii) hoarding;
  - (iv) the disposal of debris;
  - (v) encroachment on roads;
  - (vi) damage to and restoration of roads and sidewalks; and
  - (vii) the hours during which building works shall take place;
- (o) prescribing—
  - (i) acceptable solutions or verification methods, or both, that must be used to comply with the building code; and
  - (ii) the particular circumstances in which those acceptable solutions or verification methods, or both, shall be used.

(3) Notwithstanding section 29(b) of the *Interpretation Act*, regulations made under subsection (1) may provide in respect of a breach of any of the provisions thereof for the imposition of penalties on summary conviction in a Resident Magistrate's Court of a fine not exceeding one million dollars or imprisonment for a term not exceeding twelve months or of both such fine and imprisonment.

Publication of  
regulations  
and minister's  
overriding  
powers.

**92.** —(1) Regulations made under section shall be—

- (a) notified to the Minister by memorandum in writing;
- (b) published in the *Gazette*; and
- (c) expressed to have effect as from a date not earlier than—
  - (i) thirty days after notification to the Minister pursuant to paragraph (a); or
  - (ii) a date within that period of thirty days approved by the Minister by memorandum in writing and notified in the *Gazette*.

(2) If the Minister, in his discretion, considers that it is in the interest of national policy so to do, he may, during the period expressed pursuant to subsection (1) (c) (i), exercise any power given to the Parish Council to make, amend or revoke any such regulations and thereupon, until and unless the Minister otherwise directs by memorandum in writing to the Parish Council, the power of the Minister shall supersede the power of the Parish Council in relation to the subject matter addressed by the Minister in the exercise of his powers under this subsection.

(3) Where the Minister exercises the power conferred by subsection (2), he shall furnish to the Parish Council in writing an explanation of the reasons for his action.

(4) Where a Parish Council intends to make regulations concerning the setting and amending of licence fees and user charges, the Parish Council shall inform the public of such intent by displaying a notice in a conspicuous place at the offices of the Council or by publishing such notice in a daily newspaper circulated in the parish.

Minister may  
amend  
monetary  
penalties and  
schedules.

**93.** The Minister may, by order, subject to affirmative resolution—

- (a) vary or amend the monetary penalties prescribed in this Act; and
- (b) amend the Schedules to this Act.

**94.** This Act binds the Crown.

Act binds  
Crown.

**95.** Any forms prescribed or other thing done or commenced under or by virtue of any provision that has been amended or repealed by this Act and which was in force or otherwise subsisting immediately before the coming into operation of this Act—

Savings and  
transitional.

- (a) shall be deemed to have been done or commenced, as the case may be, under this Act; or
- (b) may, with such modifications as may be necessary, be continued under this Act.

**96.** The Kingston and St. Andrew Building Act and the Parish Councils Building Act are repealed.

Repeals.



## FIRST SCHEDULE

(Sections 17(2),  
34(a), 35(2), 36(3),  
41(7), 43(4),  
62(2) and 69(7))

*Schedule of Offences*

| Provision | Offence   | Penalty  |
|-----------|---|--|
| 17(2)     | Carrying out any building work—<br>(a) without a building permit in respect of the work; or<br>(b) not in accordance with this Act, any regulations made hereunder and the building permit. | Fine not exceeding one million dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment                        |
| 31(1)(a)  | Failing to give any notice required under this Act  | Fine not exceeding two hundred and fifty thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment |
| 31(1)(b)  | Executing any work prior to giving any notice required under this Act.  | Fine not exceeding two hundred and fifty thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment |

*Schedule of Offences*

| Provision | Offence  | Penalty  |
|-----------|--|--|
| 31(2)(a)  | Refusing to admit a building official or other authorized person to inspect a building or building work  | Fine not exceeding fifty thousand dollars  |
| 31(2)(b)  | Refusing or neglecting to afford the official or other person all reasonable assistance in the inspection.   | Fine not exceeding fifty thousand dollars  |
| 33(3)(a)  | Refusing to the Building Official or authorized person to enter the premises or to inspect any such building;                                      | Fine not exceeding two hundred and fifty thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment |
| 33(3)(b)  | Neglecting to afford all reasonable assistance in the inspection   | Fine not exceeding fifty thousand dollars  |
| 39(7)     | Failing to comply with a stop notice   | Fine not exceeding one million or to imprisonment for a term not exceeding one year or to both such fine and imprisonment                                |
| 41(4)     | Without the grant of a building permit or other permission in that behalf under Part IV, using the land or causing or permitting to be carried out | Fine not exceeding one million or to imprisonment a term not   |

*Schedule of Offences*

| Provision | Offence   | Penalty  |
|-----------|---|--|
|           | such for building work, in contravention of notice  | exceeding one year or to both such fine and imprisonment   |
| 62(2)     | Hindering or obstructing any person from entering on any premises for the purpose of executing work or wilfully damages or injures the said work.   | Fine not exceeding one hundred thousand dollars  |
| 70        | Failing within a reasonable time to make good damage  | Fine not exceeding one hundred thousand dollars  |
| 86(1)(a)  | Without being a registered building practitioner, carrying on the practice of building  | Fine not exceeding two hundred and fifty thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment |
| 86(1)(b)  | Without being a registered building practitioner, taking or using, in relation to self, the designation "builder" or "building practitioner" either alone or in conjunction with any other words or initials in such manner as to imply that person is qualified to carry on the practice of engineering in Jamaica | Fine not exceeding two hundred and fifty thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment |

*Schedule of Offences*

| <u>Provision</u> | <u>Offence</u>   | <u>Penalty</u>   |
|------------------|--|--|
| 86(1)(c)         | Without being a registered building practitioner, taking or using, in relation to self, any designation, title, name, initials or description indicating or implying that person is entitled to carry on the practice of building in Jamaica | Fine not exceeding two hundred and fifty thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment |
| 87(a)            | Registration under this Act contrary to the section  | Fine not exceeding five hundred thousand dollars   |
| 87(b)            | Engaging in building work without valid certificate of authorization   | Fine not exceeding five hundred thousand dollars   |

SECOND SCHEDULE  
*Constitution of Appeal Tribunal* (Sections 70,  
71 and 72)

|  |  |
|--|--|
| Constitution of the Appeal Tribunal.         | 1. The Appeal Tribunal (hereinafter called the Tribunal) shall consist of a chairman and two other members, one of whom shall be an attorney-at-law, and the other shall be a representative nominated by the Master Builders Association and approved by the Minister.  |
| Appointment and tenure of office of Members. | 2. The chairman and other members of the Tribunal shall be appointed by the Minister and shall hold office for such period, not exceeding two years, as the Minister shall determine and shall be eligible for reappointment.  |
| Revocation of appointment.                   | 3. The Minister may, if he thinks it expedient so to do, at any time revoke the appointment of the chairman or any other member of the Tribunal.   |
| Temporary appointments.                      | 4.—(1) In the case of the absence or inability to act of the chairman of the Tribunal, the Minister may appoint any person to act temporarily as chairman.<br><br>(2) In the case of the absence or inability to act of any member of the Tribunal other than the chairman, the Minister may appoint any person to act temporarily in the place of such member.  |
| Resignation.                                 | 5.—(1) Any member of the Tribunal, 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 Tribunal.<br><br>(2) The chairman of the Tribunal 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. |
| Filling of vacancies.                        | 6. If any vacancy occurs in the membership of the Tribunal such vacancy shall be filled by the appointment of another member who shall, subject to the provisions of this Schedule, hold office for the remainder of the period for which the previous member was appointed, so, however, that such appointment shall be made in the same manner and from the same category of persons, if any, as the appointment of the previous member.   |
| Publication of membership.                   | 7. The names of members of the Tribunal as first constituted and every change in the membership thereof shall be published in the <i>Gazette</i> .   |

8. There shall be paid to the chairman and other members of the Tribunal such remuneration whether by way of honorarium, salary or fees and such allowance as the Minister may determine. Remuneration  
of  
members.

9. The decision of the Tribunal shall be by a majority of votes of the members present and voting, and in addition to an original vote, the chairman shall have a casting vote in any case in which the voting is equal. Voting.

## THIRD SCHEDULE

(Section 73)

*Building Practitioners Board*Constitution of  
the Board.

1.—(1) The Board shall consist of seven members of whom—

- (a) three members shall be members *ex officio*, namely, a representative of the University of Technology, Jamaica, the Bureau of Standard and the H.E.A.R.T. Trust, respectively; and
- (b) four members (hereinafter referred to as “appointed members”) shall be appointed by the Minister as follows—
  - (i) a building practitioner, who shall be nominated by the Master Builders Association;
  - (ii) one attorney-at-law; and
  - (iii) two persons, not being building practitioners.

(2) The appointment of each member of the Board shall be for a period not exceeding two years and any such member shall be eligible for reappointment.

Chairman.

2.—(1) The Board shall elect one of its members to be Chairman and any such member shall be eligible for reelection as Chairman from time to time.

(2) The Chairman shall, so long as he remains a member of the Board, hold office until his successor is elected.

(3) An election of Chairman, other than the first such election, shall be held at the first meeting of the Board held after the 1st day of January in each year.

(4) The Chairman of the Board shall preside at all meetings of the Board and if at any meeting of the Board the Chairman is absent or unable to act, the members present and constituting a quorum shall elect from among themselves a member to act as Chairman in respect of that meeting.

Members.

3. If any member of the Board is, for whatever reason, unable to perform his functions as a member of the Board for a period in excess of three months, the Minister may appoint any person to act in the place of such member provided that such appointment shall be made in such manner and from among such persons as would be required in the case of a substantive appointment.

Resignations.

4.—(1) Any member of the Board may, at any time, resign his office by instrument in writing addressed to the Minister and transmitted through the Chairman and from the date specified therein or, if no date is specified, the date of receipt by the Minister of such instrument such member shall cease to be a member of the Board.

(2) The Chairman may, at any time, resign his office as Chairman by instrument in writing addressed to the Minister and such resignation shall take

effect from the date specified therein or, if no date is specified, the date of receipt by the Minister of such instrument.

(3) The Minister, on receipt of the resignation of the Chairman as aforesaid shall, as soon as possible thereafter, notify the Registrar who shall convene a special meeting of the Board for the purpose of electing a new Chairman.

5. If any vacancy occurs in the membership of the Board such vacancy shall be filled by the appointment of another member who shall, subject to the provisions of this Schedule, hold office for the remainder of the period for which the previous member was appointed. Vacancy.

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

7.—(1) The seal of the Board shall be kept in the custody of the Chairman seat or secretary thereof and shall be affixed to instruments pursuant to a resolution Board. Seal.

(2) The seal of the Board shall be authenticated by the signature of the Chairman or any person performing the duties of Chairman and shall be officially and judicially noticed.

(3) All documents, other than those required by law to be under seal, made by and all decisions of the Board may be signified under the hand of the Chairman or any other member authorized to act in that behalf or, with the approval of the Board, by the secretary.

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

(2) The Chairman may at any time call a special meeting of the Board and shall call a special meeting within seven days of the receipt of a written request for that purpose addressed to him by any three members of the Board.

(3) The quorum of the Board shall be determined by the Board but shall be not less than one-half of the membership.

(4) The decisions of the Board shall be by a majority of votes and, in addition to an original vote, the person presiding at any meeting shall have a casting vote in any case in which the voting is equal.

(5) Minutes in proper form of each meeting of the Board shall be kept by the secretary.

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



(7) Subject to the provisions of this Schedule or any regulations, the Board may regulate its own proceedings.

Committees. 9.—(1) The Board may appoint such committees as it may think fit and may delegate to any such committee the power and authority to carry out on its behalf such duties as the Board may determine, so, however, that no such committee shall have the power to make rules.

(2) The constitution of each committee appointed as aforesaid shall be determined by the Board.

Liability of Board. 10.—(1) No member of the Board shall be personally liable for any act or default of the Board done or omitted to be done in good faith in the Course of the operations of the Board.

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

Remuneration. 11. There shall be paid from the funds of the Board to the Chairman and other members of the Board such remuneration whether by way of honorarium, salary or fees and such allowances as the Minister may determine.

Office of Chairman or member not public office. 12. The office of Chairman or member of the Board shall not be a public office for the purpose of Chapter V of the Constitution of Jamaica.

Auditors. 13. The Board shall appoint auditors who shall audit the accounts of the Board and submit an annual report to the Chairman who shall forthwith transmit the report to the Minister.

### MEMORANDUM OF OBJECTS AND REASONS

The existing legislative framework for the regulation of building activities in the Island is outdated and impedes effective regulation and development of a modern building sector. The development of a modern legislative framework is particularly urgent and relevant in view of the need to reduce the vulnerability of the built environment and ensure public safety and welfare, minimize damage caused by natural or man-made hazards, prevent squatter settlements and promote sustainable development.

The Government has, therefore, decided to establish a building control framework for Jamaica, comprising a new National Building Code and a new Building Act; and to repeal the Kingston and St. Andrew Building Act and the Parish Councils Building Act.

Consequently, the Bill addresses *inter alia* the following matters—

- (a) the consolidation of relevant provisions of the existing Kingston and St. Andrew Building Act; the Parish Councils Act into a single Building Act, thereby eliminating the anomalies that presently exist;
- (b) the elimination of provisions relating to building standards from the body of the Bill and the prescribing of the standards in a separate National Building Code;
- (c) provision that all buildings or physical structures to be erected or demolished in Jamaica, and all related matters, fall under the new law and are to be undertaken with the approval and supervision of the relevant Local Building Authority;
- (d) legal recognition is given to the Building Code as a separate standard for ease of updating or amendment of existing building-related documents;
- (e) a building permit will need to be obtained for the carrying on of building works;
- (f) the Bill will also give recognition to the relevant provisions of the *National Heritage Trust Act* which require that the Trust be consulted before structures of historical value are demolished, and that any such demolition be undertaken by qualified personnel and be done to specific standards;
- (g) the Building code will significantly reduce or eliminate the practice of granting exemptions which currently exist and it will also bind the Government of Jamaica;
- (h) the applications system will be streamlined to include the elimination of unnecessary referrals and to expedite responses, as well as introducing a special express services;

- (i) provisions are introduced to ensure the rights of disabled persons regarding accessibility, suitability, safety and user-friendliness of all buildings to which these persons may be invited or have a right of access;
- (j) that the current deficiencies in respect of providing proper sanitary facilities in public and private buildings to which the public has access, is also addressed in the Bill;
- (k) building professionals will now submit plans or designs and ensure that buildings are constructed in compliance with the approved Building Code.

In conclusion, the new National Building Act will make provision for the legal adoption of International Building Codes, as modified, to be the National Building Code for Jamaica. It will also confirm the Jamaica Bureau of Standards as the Standards Authority with power to specify the version of the International Codes that are to be used as the National Code and to promulgate application documents in respect of those Codes. As the Standards Authority, the Bureau of Standards will also be empowered to recognize building standards and approve, list or certify building products, construction methods, building components and systems.

BRUCE GOLDING  
Prime Minister.

# A BILL

## ENTITLED

AN ACT to repeal the Kingston and St. Andrew Building Act and the Parish Councils Building Act and make new provisions for the regulation of the building industry; to facilitate the adoption and efficient application of national building standards to be called the National Building Code of Jamaica for ensuring safety in the building environment, enhancing amenities and promoting sustainable development; and for connected matters.

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As introduced by the Honourable Prime Minister.

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