



STATUTES REPEAL AND AMENDMENT (DEVELOPMENT) ACT 1993

No. 54 of 1993

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A.D. 1993

No. 54 of 1993

An Act to make certain repeals and amendments to legislation to provide for planning and development within the State; to enact transitional provisions; and for other purposes.

[Assented to 27 May 1993]

The Parliament of South Australia enacts as follows:

Short title

1. This Act may be cited as the *Statutes Repeal and Amendment (Development) Act 1993*.

Commencement

2. (1) Subject to subsection (2), this Act will come into operation on a day to be fixed by proclamation.

(2) Sections 9 (e) and 30 will come into operation on assent.

Interpretation

3. In this Act—

“the relevant day” means a day fixed by proclamation as the relevant day for the purposes of this Act.

Repeal of Building Act 1971

4. The *Building Act 1971* is repealed.

Repeal of City of Adelaide Development Control Act 1976

5. The *City of Adelaide Development Control Act 1976* is repealed.

Repeal of Planning Act 1982

6. The *Planning Act 1982* is repealed.

Amendment of the Coast Protection Act 1972

7. The *Coast Protection Act 1972* is amended—

(a) by striking out the definition of “the *Planning Appeal Tribunal*” in section 4;

(b) by striking out Part V (and the heading to that Part);

(c) by striking out paragraph (b) of section 37(2).

Amendment of the Courts Administration Act 1993

8. The *Courts Administration Act 1993* is amended by inserting after paragraph (b) of the definition of "participating courts" in section 4 the following paragraph:

(ba) the Environment, Resources and Development Court;.

Amendment of the Local Government Act 1934

9. The *Local Government Act 1934* is amended—

(a) by striking out subsection (1) of section 41 and substituting the following subsections:

(1) Subject to this section, a council may delegate any power, function or duty vested, conferred or imposed in or on the council under this or any other Act.

(1a) A delegation may be made—

(a) to a council committee;

(b) to a committee consisting of officers or employees of the council;

(c) to a committee the membership of which is drawn from at least two of the following classes of persons:

(i) members of the council;

(ii) officers or employees of the council;

(iii) persons nominated for membership of the committee by a Minister of the Crown;

or

(d) to an officer or employee of the council.;

(b) by inserting after subsection (6) of section 41 the following subsection:

(7) This section does not limit or affect any power of delegation that a council may exercise under another Act.;

(c) by inserting after paragraph (a) of section 80(6) the following paragraph:

(ab) cannot be given or have effect in relation to any matter that arises by virtue of the conferral of a power or function under the *Development Act 1993*;;

(d) by striking out the definition of "zone" in subsection (15) of section 176 and substituting the following definition:

“zone” means an area defined as a zone, precinct or locality by the regulations under the *Development Act 1993*;

(e) by inserting after subsection (4) of section 196 the following subsections:

(5) Subject to subsection (6), a council must not undertake outside the area of the council a project which constitutes a form of development within the meaning of the *Development Act 1993* if the primary reason for proposing the project is to raise revenue for the council.

(6) Subsection (5) does not apply to any development on land where—

(a) the land was owned or occupied by the council immediately before the commencement of that subsection;

or

(b) the council had, before the commencement of that subsection, entered into an agreement—

(i) to purchase the land;

or

(ii) to enter into a lease or licence over the land, the term of which exceeds six years or such longer term as may be prescribed, or in respect of which a right or option of renewal or extension exists so that the agreement, or the lease or licence, may operate by virtue of renewal or extension for a total period exceeding six years or such longer period as may be prescribed.

(7) If land owned or occupied by a council immediately before the commencement of subsection (5) is compulsorily acquired from the council after that commencement, the amount of compensation to which the council is entitled must be assessed as if subsection (5) did not affect the council's ability to reinstate the use of the land in another place.;

(f) by striking out subsections (1), (2) and (3) of section 666b and substituting the following subsections:

(1) If the council considers that any land, or any structure or object on land, within the area of the council is unsightly and detracts significantly from the amenity of the locality in which the land is situated, the council may, by notice in writing served on the owner or occupier of the land, direct the owner to take such action as the council considers necessary to ameliorate the unsightly condition.

(2) A person to whom a direction is given under subsection (1) may, within 14 days after service of the direction, appeal to the Environment, Resources and Development Court.

(3) The Court may, if satisfied that the direction or any part of the direction is unreasonable, vary or set aside the direction.

Amendment of the Mining Act 1971

10. The *Mining Act 1971* is amended—

(a) by striking out subsection (2) of section 34;

(b) by striking out subsection (1) of section 35a and substituting the following subsections:

(1) The Minister must not grant a mining lease unless he or she has caused to be published in a newspaper circulating generally throughout the State a notice—

(a) describing the land to which the application relates and, if relevant, the particular stratum to which a lease would relate;

(b) specifying a place at which the application may be inspected;

and

(c) inviting members of the public to make written submissions in relation to the application to the Minister within a period specified in the notice (which must be a period of at least 14 days from the date of publication of the notice).

(1a) The Minister must, within 14 days after receiving an application for a mining lease, send a copy of the application to—

(a) the owner of the land to which the application relates;

and

(b) the owner of any land that abuts on the land to which the application relates,

together with an invitation to submit written representations on the application within a specified time.;

(c) by striking out subsection (2) of section 53 and substituting the following subsection:

(2) The Minister must not grant a miscellaneous purposes licence unless he or she has caused to be published in a newspaper circulating generally throughout the State a notice—

(a) describing the area in respect of which the licence is sought;

(b) specifying the purpose for which the licence is sought;

and

(c) inviting members of the public to make written submissions in relation to the matter to the Minister within a period specified in the notice (which must be at least 14 days from the date of publication of the notice).;

(d) by inserting after paragraph (a) of section 53(4) the following paragraph:

(ab) to the owner of any land that abuts on the land over which the licence is sought;;

(e) by striking out from subsection (5) of section 53 “subsection (4)” and substituting “this section”.

Amendment of the National Parks and Wildlife Act 1972

11. The *National Parks and Wildlife Act 1972* is amended by inserting after subsection (2) of section 38 the following subsection:

(2a) The Minister must, in the preparation of a plan of management, or of an amendment of a plan of management, under this section—

(a) consult with the Development Policy Advisory Committee under the *Development Act 1993*;

and

(b) have regard to—

(i) the principles and policies of the Planning Strategy under the *Development Act 1993*;

and

(ii) the provisions of any relevant Development Plan under that Act.

Amendment of the Real Property Act 1886

12. The *Real Property Act 1886* is amended—

(a) by striking out from section 223la(1) the definition of “**the Commission**” and substituting the following definition:

“**the Commission**” means the Development Assessment Commission constituted under the *Development Act 1993*;;

(b) by striking out from section 223la(1) the definition of “**the Development Plan**”;

(c) by striking out from section 223la(1) the definition of “**the Fund**”;

(d) by striking out from section 223la(1) the definition of “**Metropolitan Adelaide**”;

(e) by striking out from section 223la(1) the definition of “**the Tribunal**”;

(f) by striking out section 223lba;

(g) by striking out paragraph (e) of section 223ld(3) and substituting the following paragraph:

(e) a certificate issued by the Commission under section 51 of the *Development Act 1993* in relation to the proposed division;;

(h) by striking out subsection (5) of section 223ld and substituting the following subsections:

(5) The certificate referred to in subsection (3)(e) is not required in respect of a division of land necessary to give effect to a transaction to which the Crown or the Commonwealth Crown is a party, or if a certificate is not required under section 51 of the *Development Act 1993*.

(5a) Notwithstanding the *Development Act 1993*, the certificate referred to in subsection (3)(e) expires at the expiration of one year after the application for the division of the land was lodged with the Registrar-General unless the Registrar-General extends the life of the certificate at the end of that year.;

(i) by striking out Division III of Part XIXAB (and the heading to that Division);

(j) by striking out paragraph (a) of section 223lb(2) and substituting the following paragraphs:

(a) applies to a division of land in respect of which—

(i) in the case of division under this Part—the application for planning or development authorisation under the *Planning Act 1982* or the *Development Act 1993* was lodged with the appropriate authority on or after 29 January 1992 or such later date as is specified in the regulation;

or

(ii) in the case of division by strata plan—the application for planning or development authorisation under the *Planning Act 1982* or the *Development Act 1993* in respect of the erection of the building to be divided into strata units by the plan was lodged with the appropriate authority on or after 29 January 1992 or such later date as is specified in the regulations;

(ab) does not apply to a division of land by strata plan if the building to be divided into strata units by the plan was erected before 29 January 1992 or such later date as is specified in the regulation and was, immediately before that date, divided into two or more areas designed for separate occupation;;

(k) by striking out from section 223lm(3) “the Chairman of the Commission” and substituting “the Presiding Member of the Commission”;

(l) by striking out from section 223lo(5) “planning”;

(m) by striking out section 223lo(6) and substituting the following subsection:

(6) In section (5)—

“**appropriate authority**” means the council in whose area the land is situated or where the land is not situated in the area of a council, means the Commission.

Amendment of the Strata Titles Act 1988

13. The *Strata Titles Act 1988* is amended—

(a) by striking out the definition of “**the Commission**” from subsection (1) of section 3 and substituting the following definition:

“**the Commission**” means the Development Assessment Commission constituted under the *Development Act 1993*; and

(b) by striking out paragraphs (a), (b) and (c) of the definition of “**statutory encumbrance**” in subsection (1) of section 3 and substituting the following paragraphs:

(a) an agreement relating to the management, preservation or conservation of land lodged under Part 5 of the *Development Act 1993*;

(b) any agreement or proclamation registered or noted on the title immediately before the commencement of the *Development Act 1993* that is continued in force by virtue of the provisions of the *Statutes Repeal and Amendment (Development) Act 1993*;

(c) by striking out paragraph (c) of subsection (4) of section 7 and substituting the following paragraph:

(c) the appropriate certificate of approval required under the *Development Act 1993*;

(d) by striking out paragraph (b) of subsection (3) of section 12 and substituting the following paragraph:

(b) if the amendment affects the delineation of units or common property— the appropriate certificate of approval required under the *Development Act 1993*;

(e) by striking out Division V of Part II; and

(f) by striking out from subsection (5) of section 17b “the appropriate planning authority” and substituting “the relevant authority”; and

(g) by striking out the definition of “**appropriate planning authority**” in section 17b and substituting the following definition:

“**the relevant authority**” means the council in whose area the land is situated or where the land is not situated in the area of a council, means the Commission.

Amendment of the Swimming Pools (Safety) Act 1972

14. The *Swimming Pools (Safety) Act 1972* is amended by inserting after paragraph (e) of section 4 the following paragraph:

(ea) any swimming pool the construction of which requires approval under Part 4 of the *Development Act 1993*;

Transitional provision—General

15. (1) A reference in any Act, regulation, rule, by-law or other instrument to the *Planning Act 1982*, or to the *Real Property Act 1886* (insofar as the reference relates to Part XIXAB of that Act (as repealed by this Act)), will, unless the contrary intention appears, to be taken to include a reference to the *Development Act 1993*.

(2) The *Acts Interpretation Act 1915* will, except to the extent of any inconsistency with the provisions of this Act, apply to any repeal or amendment effected by this Act.

(3) For the purpose of the application of the *Acts Interpretation Act 1915*, this Act and the *Development Act 1993* will be read together and construed as if the two Acts constituted a single Act.

Transitional provision—Development Plans

16. (1) The following are adopted and applied as Development Plans under the *Development Act 1993*:

- (a) for each area of a council (other than the City of Adelaide)—that Council portion of the Development Plan under the *Planning Act 1982*, together with the relevant regional part of the Development Plan under that Act, in effect immediately before the relevant day;
- (b) for the City of Adelaide—the Principles established under Part II of the *City of Adelaide Development Control Act 1976* in effect immediately before the relevant day;
- (c) for any part of the State outside an area of a council—the relevant “out—of—Council” part of the Development Plan under the repealed Act, together with the relevant regional part of the Development Plan under the repealed Act, in effect immediately before the relevant day.

(2) Subject to this section, a Supplementary Development Plan which, before the relevant day, is prepared or accepted by the Minister as a basis for public submissions under section 41 of the *Planning Act 1982* will continue to be subject to the provisions of the *Planning Act 1982* (as if that Act had not been repealed) until it is approved or laid aside by the Minister under section 41(11b) of that Act, and then will be subject to the *Development Act 1993*.

(3) A Supplementary Development Plan which before the relevant day has been approved by the Minister under section 41(11b) of the *Planning Act 1982* will continue to be subject to the provisions of the *Planning Act 1982* (as if that Act had not been repealed) until the plan is disallowed or brought into action (and, where the plan is brought into action, it will be taken that the amendments effected by the Supplementary Development Plan are amendments to the relevant Development Plan under the *Development Act 1993*).

(4) A Supplementary Development Plan prepared or accepted by the Minister more than

three years before the relevant day that has not been approved by the Minister under section 41(11b) of the *Planning Act 1982* before the relevant day has no further effect.

(5) A Supplementary Development Plan given interim effect under section 43 of the *Planning Act 1982* before the relevant day will be considered part of the Development Plan for the purposes of subsection (1) (but will continue to be subject to the operation of sections 41 and 43 of the *Planning Act 1982* until it ceases to operate under section 43 of that Act or, if relevant, is superseded by an amendment to a Development Plan under the *Development Act 1993*).

(6) An amendment to the Principles given notice under section 7(3) of the *City of Adelaide Development Control Act 1976* before the repeal of that Act may continue to the approval stage under section 10 of that Act (as if that Act had not been repealed), and any amendment effected under section 10 of that Act will, for the purposes of this Act, be considered to be an authorised amendment to a Development Plan under the *Development Act 1993*.

(7) A regulation (whether under the *Planning Act 1982* or any other Act) in effect immediately before the relevant day may be made as a regulation under the *Development Act 1993* without the need to comply with Part 1 of the *Development Act 1993*.

(8) An advertisement published before the relevant day under section 42a(5) of the *Planning Act 1982* in relation to a proposed regulation will be taken to be a notice published by the Advisory Committee under Part 1 of the *Development Act 1993*.

(9) Where a regulation has been publicly exhibited under section 44(3)(a) of the *City of Adelaide Development Control Act 1976* before the relevant day, the proposed regulation (with or without modification) may, with the approval of the Minister, be incorporated into the Development Plan that applies in the area of the City of Adelaide without complying with any procedure set out in the *Development Act 1993*.

(10) A reference in the Development Plan under the *Planning Act 1982*, or in any Act, regulation, rule, by-law or other instrument, to development which is "permitted" or "prohibited" under section 47 of the *Planning Act 1982* will be taken respectively as a reference to *complying* or *non-complying* development under the *Development Act 1993*.

(11) A reference in the Development Plan under the *Planning Act 1982*, or in any Act, regulation, rule, by-law or other instrument, to development which is "permitted" subject to a certificate will be taken as a reference to a *complying* development under the *Development Act 1993* subject to the relevant authority under that Act being satisfied as to those matters to which the certificate relates.

(12) A reference to development or use of land as "prohibited" in the Principles made under Part II of the *City of Adelaide Development Control Act 1976* will be taken as a reference to *non-complying* development under the *Development Act 1993*, and development that would contravene the requirements of a diagram in the Principles made under Part II of the *City of Adelaide Development Control Act 1976* will also be classified as *non-complying* development under the *Development Act 1993*.

(13) The Schedule entitled the Register of City of Adelaide Heritage Items set out in the *City of Adelaide Development Control Regulations 1987* is, subject to amendment under the

Development Act 1993, declared to be a part of the Development Plan that applies in the area of the City of Adelaide, and a reference to the Register in the Principles in that Plan will be construed accordingly.

(14) In the event of any inconsistency between the Principles under Part II of the *City of Adelaide Development Control Act 1976* and a regulation under the *Development Act 1993*, the Principles will prevail.

(15) If any Act, regulation, rule, by-law or other instrument in effect immediately before the relevant day sets out, provides for or otherwise affects any procedure relating to the formulation, consideration, amendment or approval of a Supplementary Development Plan, it will be taken that that Act, regulation, rule, by-law or other instrument also operates in the same manner with respect to any relevant amendment to a Development Plan under the *Development Act 1993*.

(16) A reference in any Act, regulation, rule, by-law or other instrument in effect immediately before the relevant day to those provisions of the *Planning Act 1982* that relate to the referral of a Supplementary Development Plan, or any report relating to a Supplementary Development Plan, to the Advisory Committee under that Act will be taken to include a reference to the referral of a Plan Amendment Report, or any other report relating to an amendment to a Development Plan, to the Advisory Committee under the *Development Act 1993*.

(17) A reference in any Act, regulation, rule, by-law or other instrument in effect immediately before the relevant day to those provisions of the *Planning Act 1982* that relate to the public display of, or public consultation on, a Supplementary Development Plan will be taken to include a reference to the public display of, or public consultation on, a Plan Amendment Report (and the relevant Development Plan amendment) under the *Development Act 1993*.

(18) A reference in any Act, regulation, rule, by-law or other instrument in effect immediately before the relevant day to those provisions of the *Planning Act 1982* that relate to the referral of a Supplementary Development Plan to the Environment, Resources and Development Committee under that Act will be taken to include a reference to the referral of an amendment to a Development Plan to the Environment, Resources and Development Committee under the *Development Act 1993*.

(19) A reference in any Act, regulation, rule, by-law or other instrument—

(a) to the Development Plan under the *Planning Act 1982*; or

(b) to a Supplementary Development Plan that has been approved under the *Planning Act 1982*,

will be taken to be a reference to the relevant Development Plan under the *Development Act 1993*.

Transitional provision—Division of land

17. (1) A reference in any Act, regulation, rule, by-law or other instrument in effect immediately before the relevant day to a "Statement of Requirements" issued by a council under

the *Real Property Act 1886* will be taken to include a reference to any conditions imposed under section 33(1)(c) of the *Development Act 1993*.

(2) A reference in any Act, regulation, rule, by-law or other instrument in effect immediately before the relevant day to a "Statement of Requirements" issued by the South Australian Planning Commission under the *Real Property Act 1886* will be taken to include a reference to any conditions imposed under section 33(1)(c) of the *Development Act 1993*, and to any conditions or terms imposed or required under section 51 of the *Development Act 1993*.

(3) A reference in any Act, regulation, rule, by-law or other instrument in effect immediately before the relevant day to any Certificate of Approval under Part XIXAB of the *Real Property Act 1886* will be taken to include a reference to a certificate under section 51 of the *Development Act 1993*.

(4) Subject to subsection (5), a division proposal lodged or granted approval under the *Planning Act 1982* prior to the relevant day may be the subject of applications for Certificates of Approval under Part XIXAB of the *Real Property Act 1886* or the *Strata Titles Act 1988* (as in force immediately before the relevant day as if the *Development Act 1993* and this Act had not been enacted), provided that any approval under the *Planning Act 1982* has not lapsed.

(5) Subsection (4) is subject to the qualification that section 50 of the *Development Act 1993* will apply in relation to the proposal instead of the relevant provision of Part XIXAB of the *Real Property Act 1886*.

(6) A Certificate of Approval under Part XIXAB of the *Real Property Act 1886* or the *Strata Titles Act 1988* in force immediately before the relevant day will continue in force and effect notwithstanding any repeal or amendment effected by this Act, and may be dealt with as if the *Development Act 1993* and this Act had not been enacted.

Transitional provision—Environmental impact statements

18. (1) An environmental impact statement officially recognised under the *Planning Act 1982* will be taken to be an environmental impact statement under the *Development Act 1993* (but not so as to impose any additional or other procedure that is inconsistent with a procedure under the *Planning Act 1982*).

(2) A requirement for an environmental impact statement under the *Planning Act 1982* or the *City of Adelaide Development Control Act 1976* will be taken to be a requirement imposed under the *Development Act 1993*, and an environmental impact statement which was the subject of notice under the *Planning Act 1982* or the *City of Adelaide Development Control Act 1976* before the relevant day may, provided that such notice was given not more than three years prior to the relevant day, continue to the stage of official recognition under either Act (as if the Act had not been repealed), and then will be taken to be an environmental impact statement under the *Development Act 1993*.

Transitional provision—Declarations

19. A declaration made under section 50 of the *Planning Act 1982* will continue in force and effect as if it were a declaration of the Governor under the corresponding provision of the *Development Act 1993*.

Transitional provision—Agreements

20. An agreement in force under section 61 of the *Planning Act 1982* immediately before the relevant day will be taken to be an agreement under the corresponding provision of the *Development Act 1993* (and will have the same force and effect as it had immediately before the relevant day).

Transitional provision—Proclamation of open space

21. A proclamation made under section 62 of the *Planning Act 1982* (or made under section 61 of the *Planning and Development Act 1966* or section 29 of the *Town Planning Act 1929*) will continue in force and effect as if the *Planning Act 1982* had not been repealed (and that Act will be taken to continue to apply in relation to any such proclamation).

Transitional provision—Development schemes

22. A scheme in force under section 63 of the *Planning Act 1982* immediately before the relevant day will continue in force and effect as if that Act had not been repealed (and that Act will be taken to continue to apply in relation to any such scheme).

Transitional provision—Approved qualifications

23. An approval under section 73 of the *Planning Act 1982* will be taken to be an approval under the corresponding provision of the *Development Act 1993* (subject to the conditions (if any) that applied to the approval under the *Planning Act 1982*).

Existing procedures, etc.

24. (1) A reference in any Act, regulation, rule, by-law or other instrument to the Planning Appeal Tribunal or City of Adelaide Planning Appeals Tribunal, or to a Building Referee, will be taken to be a reference to the Environment, Resources and Development Court.

(2) Except as otherwise provided by this Act, an application, appeal or other proceeding commenced under the *Planning Act 1982*, any Act that was repealed by the *Planning Act 1982*, the *City of Adelaide Development Control Act 1976*, the *Building Act 1971*, Part XIXAB of the *Real Property Act 1886* or the *Strata Titles Act 1988*, or regulations under those Acts, but which had not been finally determined at the relevant day, may be continued and completed as if the *Development Act 1993* and this Act had not been enacted, except that a reference to the Planning Appeal Tribunal or City of Adelaide Planning Appeals Tribunal, or to a Building Referee, will be taken as a reference to the Environment, Resources and Development Court.

(3) A right of appeal in existence before the relevant day may be exercised as if the *Development Act 1993* and this Act had not been enacted, except that a reference to the Planning Appeal Tribunal or City of Adelaide Planning Appeals Tribunal, or to or a Building Referee, will be taken as a reference to the Environment, Resources and Development Court.

(4) Any proceedings before the Planning Appeal Tribunal, the City of Adelaide Planning Appeals Tribunal or a Building Referee immediately before the relevant day will, subject to such directions as the Presiding Member of the Court thinks fit, be transferred to the Environment, Resources and Development Court where they may proceed as if they had been commenced before that Court.

(5) The Environment, Resources and Development Court may—

(a) receive in evidence any transcript of evidence in proceedings before the tribunal or

referee before which the proceedings were commenced, and draw any conclusions of fact from that evidence that appear proper; and

(b) adopt any findings or determinations of that tribunal or referee that may be relevant to the proceedings.

(6) A development application lodged or approved under the *Planning Act 1982* or *City of Adelaide Development Control Act 1976* for building work prior to the relevant day may be the subject of application for approval under the *Building Act 1971* following its repeal, provided that any approval under the *Planning Act 1982* or *City of Adelaide Development Control Act 1976* has not lapsed.

(7) A condition attached to, or applying in relation to, an approval or authorisation granted under the *Planning Act 1982*, the *City of Adelaide Development Control Act 1976* or the *Building Act 1971* will remain in force as if granted under the *Development Act 1993* and bind the owners and occupiers of the land to which the condition relates.

(8) The repeal of any Act by this Act does not affect any rights that accrued under the Act so repealed, the validity of any decision or authorisation made or granted under the Act so repealed, or any notice or order given or made under the Act so repealed.

Administrative arrangements

25. (1) Any power, duty, function or obligation vested in the South Australian Planning Commission or the City of Adelaide Planning Commission immediately before the relevant day (other than in respect of Part II of the *City of Adelaide Development Control Act 1976*) is exercisable by, or attaches to, the Development Assessment Commission under the *Development Act 1993*.

(2) Any power, duty, function or obligation vested in the Advisory Committee on Planning, the Building Advisory Committee or the City of Adelaide Planning Commission in respect of Part II of the *City of Adelaide Development Control Act 1976* immediately before the relevant day is exercisable by, or attaches to, the Advisory Committee under the *Development Act 1993*.

(3) A reference in any Act, regulation, rule, by-law or other instrument to the Metropolitan Planning Area, or to Metropolitan Adelaide, as constituted or defined under the *Planning Act 1982* will, unless the contrary intention appears, be taken as a reference to Metropolitan Adelaide under the *Development Act 1993*.

(4) A reference in any Act, regulation, rule, by-law or other instrument to a planning authority or planning authorisation under the *Planning Act 1982* will, unless the contrary intention appears, be taken to include a reference to a relevant authority or development authorisation (as the case may be) under the *Development Act 1993*.

Lapse of approvals under the Planning and Development Act

26. Any development approval granted and current at the relevant day under the *Planning and Development Act 1966* will lapse at the expiration of 12 months from commencement of this Act unless—

(a) the approval is, as at the relevant day, subject to any proceedings before a court or tribunal constituted by law; or

- (b) the development had substantially commenced prior to that time; or
- (c) if land division, application for division has been lodged with the Registrar-General; or
- (d) application for extension is granted in response to application under the *Development Act 1993*; or
- (e) the approval has been specifically granted for a longer specific period.

Transitional provision—Certificates of classification

27. A certificate of classification issued under the *Building Act 1971* in force immediately before the relevant day will be taken to be a certificate of occupancy under the *Development Act 1993*.

Transitional provision—Buildings specifically

28. (1) Except as otherwise expressly provided by the *Development Act 1993* or the regulations under that Act, a building that was lawfully erected or constructed before the relevant day or was taken pursuant to the *Building Act 1971* to conform with the provisions of that Act will be taken to conform with the *Development Act 1993* if—

- (a) it conformed with the law of this State as in force at the time of its erection or construction; or
- (b) where it has been altered since the time of its erection or construction, the alteration has been made pursuant to the law of this State as in force at the time of the alteration, or pursuant to the *Development Act 1993*.

(2) Any building work in the nature of an alteration to a building erected or constructed before the relevant day must conform with the provisions of the *Development Act 1993*, but, where the general safety and structural standard of the building or structure would not be impaired, an authority under the *Development Act 1993* may permit the building work to be carried out otherwise than in conformity with the provisions of that Act.

(3) Where approval is sought pursuant to the *Development Act 1993* of any building work in the nature of an alteration to a building erected or constructed before the relevant day and the building is, in the opinion of an authority under the *Development Act 1993*, unsafe or structurally unsound, that authority may require, as a condition of its approval of the building work, that the entire building be brought into conformity with the requirements of that Act in all respects as if it were a building erected or constructed after the commencement of that Act, or with so many of those requirements as will, in the opinion of the authority, ensure that the building will be rendered safe and will conform to a proper structural standard.

(4) Where—

- (a) approval is sought pursuant to the *Development Act 1993* of any building work in the nature of an alteration of a kind prescribed by regulations under that Act to a building erected or constructed before 1 January 1980; and
- (b) an authority under that Act is of the opinion that the facilities for access to or within the building for persons with disabilities are inadequate,

the authority may, as a condition of its approval of the building work, require such building work or other measures to be carried out as may be reasonably necessary to ensure that the facilities for such access will be adequate.

Transitional provision—Existing appointments

29. (1) Subject to subsection (2), a person who was, immediately before the relevant day, a full-time commissioner of the Tribunal under the *Planning Act 1982* will continue in office as a commissioner of the Environment, Resources and Development Court on the same terms and conditions as applied to the person immediately before the relevant day.

(2) A person to whom subsection (1) applies must retire—

(a) on or before the retirement age that applied to the person immediately before the relevant day; or

(b) if no such retirement age applied—on or before the person attains the age of 65 years or, if he or she has attained that age before the relevant day, on the relevant day.

Application of an amendment

30. The amendment effected by section 9(e) of this Act does not apply to a project approved before the commencement of that section by the Minister responsible for the administration of the *Local Government Act 1934* under section 197 of that Act, or to a project for which planning consent under Part V of the *Planning Act 1982* was obtained before the commencement of that section.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

ROMA MITCHELL Governor