

ANTIGUA AND BARBUDA



**ANTIGUA AND BARBUDA CITIZENSHIP BY INVESTMENT
(AMENDMENT) BILL, 2016**

NO. OF 2016

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ARRANGEMENT OF CLAUSES

CLAUSES

1. Short title and Commencement
2. Amendment to Section 2 – Interpretation
3. Amendment of the principal Act
4. Amendment to Section 4 – Deprivation of citizenship by Investment
5. Amendment of Section 6 – Regulations
6. Repeal

**ANTIGUA AND BARBUDA CITIZENSHIP BY INVESTMENT
(AMENDMENT) BILL, 2016**

NO. OF 2016

AN ACT to provide for the amendment of the Citizenship by Investment Act, 2013 and for related or incidental matters

ENACTED by the Parliament of Antigua and Barbuda as follows-

1. Short title and Commencement

This Act may be cited as the Citizenship by Investment (Amendment) Act, 2016 and shall come into effect on a day appointed by the Minister and publish by notice in the gazette.

2. Amendment of section 2 Interpretation

Section 2 of the principal Act is repealed and substituted with the following-

“2. Interpretation

In this Act –

“Citizenship Act” means Antigua and Barbuda Citizenship Act, Cap. 22;

“Citizenship by Investment” refer to the grant of citizenship pursuant to the Citizenship by Investment Act, 2013

“Citizenship by Investment Program” means the Citizenship by Investment Programme established under the Citizenship by Investment Act, 2013; and “Programme” shall carry the same meaning in the like context.

“Citizenship by Investment Unit” means the office established by regulation 3; and
“the Unit” shall be understood as referring to the same office;

“Minister” means the Prime Minister acting in consultation with Cabinet;”

3. Amendment of the principal Act

The principal Act is amended by repealing sections 2A to 2K and by repealing any other amendments to the principal Act made by the Antigua and Barbuda Citizenship by Investment (Amendment) Act, 2014, No. 7 of 2014

4. Amendment of section 4 of the principal Act – Deprivation of citizenship by investment

Section 4 of the principal Act is amended by repealing subsection (1) and replacing it with the following –

“(1) In addition to the powers conferred on him by the Citizenship Act, the Minister responsible for immigration and citizenship may by Order deprive any person of citizenship granted under this Act if that person does not spend a minimum of five (5) days in Antigua and Barbuda during the period of five calendar years after his registration.”

5. Amendment of Section 6 of the principal Act – Regulations

The schedule to the principal Act comprising the Antigua and Barbuda Citizenship by Investment Regulations 2013 is repealed and replaced with the following new schedule –

“SCHEDULE

(Section 6)

ANTIGUA AND BARBUDA CITIZENSHIP BY INVESTMENT REGULATIONS 2016

1. Short title

These Regulations may be cited as the Antigua and Barbuda Citizenship Regulations, 2016.

2. Interpretation

In these Regulations unless the context otherwise requires –

“Act” means the Antigua and Barbuda Citizenship by Investment Act, 2013

“Agent” means a person who has applied for, and been granted, an Agent’s Licence pursuant to regulation 4 and is thereby authorised to act on behalf of the main applicant in relation to a citizenship by investment application;

“Agent’s Licence” means a Citizenship by Investment Agent’s Licence granted by the Minister under regulation 4

“Applicant” means a person who applies for Citizenship by Investment;

“approved charitable investment” means a funding in a non-profit organisation approved by the Minister in accordance with regulation 8;

“approved development area” means an area approved for development by Cabinet in connection with the purposes of the Act;

“approved project” means a real estate project approved by Cabinet on the recommendation of the Unit acting in consultation with the Antigua and Barbuda Investment Authority to be done within an approved development area;

“authenticated translation” means a translation done by either a professional translator who is officially accredited to a court of law, a government agency, an international organisation, or similar official institution, or if done in a country where there are no official accredited translations, a translation done by a company whose role or business is professional translation;

“certified copy” means a copy of an original document certified by a notary public or some other person authorised to certify or authenticate documents to be a true copy of the original;

“child” means a biological or legally adopted child of the main applicant, or of the spouse of the main applicant;

“Citizenship by Investment Programme” means the citizenship by investment programme established under the Citizenship by Investment Act, 2013.

“Citizenship by Investment Unit” means the office established by regulation 3; and “the Unit” shall be understood as referring to the same office;

“dependant” means –

(a) A spouse of the main applicant;

- (b) A child of the main applicant or of his or her spouse who is less than eighteen years of age;
- (c) A child of the main applicant or of his or her spouse who is –
 - (i) at least 18 years but less than twenty-six years of age; and
 - (ii) is enrolled as a full time student in a university or college in an educational program having, at the time of the application, more than six months remaining before he is expected to complete the course.
- (d) A child of the main applicant or his or her spouse who is eighteen years of age or older but who is physically or mentally handicapped and who is living with and is fully supported by the main applicant; or
- (e) A parent or grandparent of the main applicant or his or her spouse who is sixty-five years of age or older and who is living with and is fully supported by the main applicant;

“investment” means –

- (a) The purchase of real estate in an approved project;
- (b) A contribution to the National Development Fund in accordance with regulation 7; or
- (c) An investment in a business in Antigua and Barbuda in accordance with regulation 9;

“main applicant” means the person who, either as a single applicant or as the head of a family, undertakes an investment for the purposes of these Regulations and signs the relevant agreements and undertakings on behalf of his or her dependants;

“minimum investment” means an investment into an approved project of an amount not less than that defined by these Regulations;

“National Development Fund” means a special fund established under section 42(2) of the Finance Administration Act 2006 for the purpose of funding government sponsored projects, public-private partnerships, approved charitable investments and any other activity approved by Cabinet;

“police certificate” means a statement from the national law enforcement authority of each country or countries of residence of the applicant, his or her spouse and dependants providing detail information on the status of the applicant, his or her spouse and dependants’ criminal records;

3. Establishment of Citizenship by Investment Unit

(1)The Cabinet shall establish a Citizenship by Investment Unit that shall be responsible for processing all applications for the Agents' Licences, and all applications for Citizenship by Investment.

(2)The Unit shall be staffed by persons of integrity who will be employed in a non-established capacity by the Permanent Secretary in the Office of the Minister from amongst persons who are qualified and have the necessary experience and capacity in matters relating to law, finance, trade and development, and environmental studies.

(3)The Cabinet shall appoint one of those persons to be Chief Executive Officer of the Unit whose paramount duties shall be to provide the necessary leadership to the Unit and to continuously monitor the citizenship by investment programme to ensure that its independence and integrity are maintained and that it is managed in accordance with international best practices.

(4)The Chief Executive Officer shall keep the Minister fully informed of the business of the Unit and shall furnish the Minister with such information as the Minister may request with respect to any particular matter relating to the business and activities of the Unit.

(5)The Chief Executive Officer may from time to time and with the approval of the Minister employ at such remuneration and on such terms and conditions as he thinks fit such other support staff as may be necessary and proper for the due and efficient management and administration of the Unit.

(6)The employees of the Unit shall not be public officers for the purposes of Chapter VII of the Constitution.

4. Citizenship by Investment Agent

(1)An application for Citizenship by Investment shall only be submitted by an Agent who is the holder of an Agent's Licence issued by the Minister under the Act.

(2)The Minister may only issue an Agent's Licence to a natural person, who –

- (i) is a citizen of Antigua and Barbuda; and
- (ii) was lawfully ordinarily resident in Antigua and Barbuda for a period of not less than seven years immediately before making his application for an Agent's Licence;

(3) An application for an Agent's Licence shall be submitted to the Unit in the prescribed form and shall be accompanied by the following –

- (a) The qualification of the applicant and where the applicant is a member of a professional body a certificate of good standing issued by the professional association to which he belongs;
- (b) The Applicant's Tax Identification Number issued by the Commissioner of Inland Revenue;
- (c) Evidence of professional indemnity insurance of a minimum of \$3,000,000.00; and
- (d) Such other requirements as the Unit may determine.

(4) A person shall not be qualified to be an Agent if he is –

- (a) A member of Parliament or spouse or partner or child of a member of Parliament;
- (b) A member of the Unit or spouse or partner or child of a member of the Unit;
- (c) Convicted of a criminal offence, involving fraud, money laundering or being investigated for a criminal offence in Antigua and Barbuda or any country outside Antigua and Barbuda;
- (d) A bankrupt or his business is in receivership or has made arrangements with his creditors.

(5) An Agent shall maintain a place of business in Antigua and Barbuda and shall promptly inform the Unit of any changes in the address of the business;

(6) The Minister shall revoke an Agent's Licence if –

- (a) he considers that the ability, resources, experience or integrity of the Agent has fallen below the standard that might reasonably be expected;
- (b) the annual fee specified in paragraph 1 of the schedule to these regulations remain unpaid for fourteen days after it has become due;
- (c) the requirements of subregulation (4) have not been complied with; or
- (d) the agent has contravened regulation 11(3)

(7) A person who contravenes subregulation (1) commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.00 or to imprisonment for a term not exceeding 12 months, or to both such fine and imprisonment.

5. Qualifications and general requirements and procedures for citizenship by investment

- (1) Any person who is –
 - (a) at least eighteen years of age;
 - (b) proposes to make an investment; and
 - (c) who meets the application requirements
may apply as a main applicant to become a citizen of Antigua and Barbuda pursuant to section 3 of the Act.
- (2) Applications shall be –
 - (a) made on the prescribed forms in accordance with regulation 14
 - (b) accompanied by a non-refundable deposit comprising ten percent of the applicable processing fees and the full amount of the due diligence fees as specified in the Schedule of Fees; and
 - (c) accompanied by the originals or certified copies of –
 - (i) a certificate in the prescribed form by a medical practitioner that the main applicant and his dependants are not suffering from any contagious disease and that they are otherwise in good health; and
 - (ii) a police certificate.
- (3) Applications for citizenship must be submitted to the Unit by an Agent.
- (4) Application forms shall be available only from the Unit upon request by an Agent.
- (5) An application form shall be completed in English and any document submitted with the application shall be in English, or, if the original language of the document is not English, the document shall be accompanied by an authenticated translation.
- (6) The main applicant shall provide a sworn affidavit of support for each dependant over eighteen years old.
- (7) Each application form must be completed personally by the main applicant or the Agent and signed by the main applicant and by any dependants over the age of eighteen, and the following conditions shall be applicable –
 - (a) For the dependant who is below the age of eighteen, both parents may be required to sign the forms on behalf of the dependant; and
 - (b) In a case where one parent has sole custody of a dependant, or another person has legal guardianship of a dependant, the appropriate legal

documentation shall be provided to demonstrate that sole custody or guardianship was awarded by a court of law or other relevant authority.

(8) If an applicant makes a false statement or omits information requested on any of the forms, the citizenship application may be declined.

(9) With the exception of a police certificate, which may be submitted subsequently at a later date before the application is approved, application shall only be accepted and processed (8) If all forms are properly completed, dated and signed, and if accompanied by all required documents and fees.

(10) Every application that is submitted shall be examined by the Unit.

(11) The Unit shall perform, or cause to be performed, due diligence checks in respect of every applicant and every dependant over eleven years of age and the applicant may be required to attend an interview in Antigua and Barbuda or at an embassy or High Commission of Antigua and Barbuda before any decision is made in relation to his application.

(12) An applicant who is at least eighteen years and less than twenty-six years of age who is applying as a dependant of a main applicant shall submit written confirmation from an accredited university or college of further education of the applicant's enrolment at that university or college at the time of the application.

(13) Where a document is required to be produced under this regulation in support of an application for citizenship by investment, such documentation must –

- (a) be certified and authenticated in accordance with the laws of the jurisdiction where the document originates;
- (b) in respect of the person certifying the document, be clearly marked with the full name of that person, the capacity in which he is signing, the physical address of his residence or business, telephone number and email address.

(14) Within three months of the submission of an application for Citizenship by Investment, the Unit shall notify the Agent acting on behalf of the main applicant that the application has been –

- (a) approved;
- (b) denied; or
- (c) delayed for cause and is still being processed.

(15) Within thirty days of notification of the approval under subregulation (14) (a) the applicant or applicants shall pay the balance of the processing fee and –

- (a) deposit the required contribution under regulation 7 into the National Development Fund; or
- (b) complete and execute all necessary documents and pay the purchase price and all required disbursements to enable title to be registered in the applicant's name and allow for the implementation of the proposed real estate investment in accordance with the guidelines established by the Unit; or
- (c) complete and execute all necessary documentation for the payment or investment of all sums due for the implementation of the proposed investment in business in accordance with the guidelines established by the Unit.

(16) Every successful applicant shall attend to such office in Antigua and Barbuda or at any Embassy or the office of any High Commission or Consulate of Antigua and Barbuda or such other office as may be specified, from time to time by the Minister to take the oath of allegiance of affirmation in the form contained in the Third Schedule to the Antigua and Barbuda Citizenship Act.

(17) A main applicant may within 30 days of receiving notification of the denial of his application under subregulation (14) appeal the decision of the Unit to the Minister who shall submit the application to a review committee for consideration.

(18) An application for citizenship may be processed in respect of every new dependant or new spouse of a main applicant within five years of the approval of the main applicant's citizenship upon the payment of the prescribed fee.

6. Real Estate Investments

(1) Cabinet shall from time to time by Order declare approved development areas for the purpose of real estate investments under this Act, and shall notify the Unit accordingly.

(2) A developer may, upon the payment of a prescribed fee, submit an application to the Unit for approval of a project for residential, tourism, commercial or an industrial purpose within an approved development area.

(3) Where an applicant executes a binding purchase and sale agreement with a developer of an approved project within an approved development area, conditional upon

the application being approved for citizenship by investment, an application may be submitted on his behalf by an Agent.

(4) The full purchase price of the real estate shall be at least one million and eighty thousand dollars.

(5) Two or more applicants who execute such a binding purchase and sale agreement may apply jointly for citizenship by investment, provided that each applicant contributes the minimum investment of one million and eighty thousand dollars towards the investment.

(6) Beneficial ownership of real estate shall be permissible only through a company that is not a non-profit company and provided that such company –

- (a) has issued all of its authorised shares to the applicant or the applicants under subregulation (5) ;
- (b) is established and is in good standing under the laws of Antigua and Barbuda;
- (c) is not an exempt or off shore entity; and
- (d) submits irrefutable evidence as to its beneficial ownership.

(7) Where a citizen by investment disposes of real estate purchased as an approved project or disposes of his shares in a company owning such real estate before the expiry of the period of five years or before the proposed development has been substantially completed he shall, unless exempted by Cabinet for good and sufficient reason,

- (a) be deprived of his citizenship by the Minister responsible for immigration and citizenship; and
- (b) be disqualified from further participation in the Citizenship by Investment Programme.

(8) Where contemporaneously with a disposal as described in subregulation (7) the applicant purchases another approved project or a beneficial interest in a similar company for at least the purchase price specified in subregulation (4) or alternatively makes another investment under this Act, subregulation (7) (a) and (7)(b) will not apply.

(9) An application for Citizenship by Investment under subregulation (2) shall be considered only after the applicant has demonstrated to the satisfaction of the Unit that he has the financial means to develop the approved project and in accordance with the guidelines published by the Unit.

7. National Development Fund Investments

(1) An application for citizenship may be submitted by an Agent on behalf of a single applicant or a family who proposes to make a contribution to the National Development Fund and where that contribution - (a) for the single individual is \$540,000.00; (b) for a family of up to four persons is \$540,000.00; and (c) for a family of five or more persons is \$675,000.00

(2) Notwithstanding the processing fees outlined in the schedule of fees to these regulations, the processing fee in respect of an application submitted under subregulation (1) shall be –

- (i) For a single applicant - one hundred and thirty-five thousand dollars
- (ii) For a family of four - the main Applicant shall pay one hundred and thirty-five thousand dollars; his or her spouse shall pay one hundred and thirty-five thousand dollars; and no processing fee shall be charged in respect of the two youngest dependants.
- (iii) For a family of five or more - the main Applicant shall pay one hundred and thirty-five thousand dollars; his or her spouse shall pay one hundred and thirty-five thousand dollars; and no processing fee shall be charged in respect of the three youngest dependants.

8. Charitable Investments

The Minister may from time to time approve one or more non-profit organizations which deliver services in health care, education, environmental management, youth development or the promotion of sport or culture for the allocation of charitable investments from the National Development Fund.

9. Investment in Business

(1) The Minister shall approve businesses, whether existing or proposed, for the purposes of investment in business under the Act and shall publish same in the *Gazette*.

(2) Where –

- (a) A person proposes to make an investment in an approved business of at least four million dollars on his own behalf; or
- (b) At least 2 persons propose to make a joint investment in such an approved business totaling at least thirteen and a half million dollars and each of those persons individually propose to contribute at least one million and eighty thousand dollars to the joint investment, an application or applications for

Citizenship by Investment may be submitted on his or their behalf through an Agent.

10. Ineligible Applicants

An applicant who –

- (a) has provided false information on his or her application form;
- (b) not having received a free pardon, has at any time previously been convicted in any country of an offence for which the maximum custodial penalty is in excess of six months imprisonment;
- (c) is the subject of a criminal investigation;
- (d) is a potential national security risk to Antigua and Barbuda or any other country;
- (e) is involved in any activity likely to cause disrepute to Antigua and Barbuda;
or
- (f) has been denied a visa to a country with which Antigua and Barbuda has visa-free travel and who has not subsequently obtained a visa to the country that issued the denial,

shall not be approved for citizenship under this Act.

11. Promotion and dissemination of Information

(1) The Unit shall from time to time by contract appoint representatives and service providers to promote, advertise, and disseminate information on the citizenship by Investment programme and identify suitable applicants whose applications must be submitted through an Agent.

(2) The Unit shall appoint only representatives and service providers whose professional qualification, ability, resources, expertise, integrity and conduct conform to the guidelines issued by the Unit.

(3) No promotional information, or advertisement in relation to the Citizenship by Investment programme shall be published or disseminated publicly unless it complies with the guidelines issued by the Unit.

(4) A person who contravenes subregulation (3) commits an offence and is liable on summary conviction to a fine not exceeding fifteen thousand dollars.

12. Review process

(1) The Cabinet may, where it deems necessary, appoint a review committee to review an application and to perform such other duties as the Cabinet may prescribe.

(2) The review committee shall be comprised of not more than seven members.

(3) Where the Minister appoints a review committee, the committee may request the applicant to appear before it.

(4) The committee that is appointed pursuant to subregulation (1) shall make recommendation to the Minister based on its findings in relation to the application under review.

13. Six-Monthly Report

(1) The reports referred to in section 5 of the Act shall set out the information described in subregulation (2) for the half years in each year starting on the 1st January and the 1st July and shall be prepared within fourteen days of the expiry of each half-year period.

(2) The information contained in the reports referred to in subregulation (1) shall include –

- (a) the numbers of applications made, granted and refused under the Act;
- (b) the number of passports issued by virtue of the Act;
- (c) the dates of the application and of the Minister's decision;
- (d) the nationalities of the applicants and of any dependants included in the application;
- (e) the amounts of the purchase prices, contributions or investments, as the case may be;
- (f) the names of the approved project, charitable organisation, government-sponsored project or business investment in respect of which payment was made to support each application;
- (g) the aggregate amount in the National Development Fund at the date of the report; and
- (h) the date on which the payment made by a successful applicant was transmitted from the National Development Fund to the government-sponsored project or the approved non-profit organisation, as the case may be, together with such other information as the Minister considers appropriate.

14. Forms

The Unit shall prescribe forms to facilitate the applications required as provided in these Regulations.

SCHEDULE OF FEES

Regulations 4(3) and 5(2)

1. Citizenship by Investment Agent's Licence

There shall be payable on application for a Citizenship by Investment Agent's licence a fee of \$8,100.00 and on each anniversary of the granting of a Citizenship by Investments Agent's Licence, the Agent shall pay a fee of \$13,500.00

2 Citizenship by Investment

The following fees shall be payable to the Unit in respect of an application for Citizenship by Investment –

Fees	\$
Processing fee – Principal applicant	\$135,000.00
Processing fee – Spouse	\$135,000.00
Processing fee – Dependent child aged 0 – 11 years	\$ 67,500.00
Processing fee – Dependent child aged 12 – 17 years	\$ 67,500.00
Processing fee – Dependent child aged 18 – 25 years	\$135,000.00

Processing fee – Dependent parent aged over 65 years	\$135,000.00
Due diligence fee – Principal applicant	\$ 20,250.00
Due diligence fee – Spouse	\$ 20,250.00
Due diligence fee – Dependent child aged 0 – 11years	\$ 0.00
Due diligence fee – Dependent child aged 12 – 17years	\$ 5,400.00
Due diligence fee – Dependent child aged 18 – 25 years	\$ 10,800.00
Due diligence fee – Dependent parent aged over 65 years	\$ 10,800.00

3. Renewal of Passport – 5 year Review

The following fees are undertaken five years after the approval for citizenship was granted, payable to the Unit in respect of the review of a citizenship

Fees	\$
Due diligence fee – Principal applicant	\$ 20,250.00
Due diligence fee – Spouse	\$ 20,250.00
Due diligence fee – Dependent child aged 0 – 11years	\$ 0.00

Due diligence fee – Dependent child aged 12 – 17 years	\$ 5,400.00
Due diligence fee – Dependent child aged 18 – 25 years	\$ 10,800.00
Due diligence fee – Dependent parent aged over 65 years	\$ 10,800.00

4. Additional Application of a New Spouse or New Dependant

Fees	\$
Processing fee - New Spouse	\$202,500.00
Processing fee – New Dependant 0 – 11years	\$ 67,500.00
Processing fee – New Dependant 12 – 17 years	\$ 67,500.00
Processing fee – Dependant aged over 65 years	\$202,500.00
Due Diligence fee – New Spouse	\$ 20,250.00
Due diligence fee – New Dependant 0 – 11 years	\$ 0.00
Due diligence fee – New Dependant 12 – 17 years	\$ 5,400.00
Due diligence fee – New Dependant parent over 65yrs	\$ 10,800.00

5. Approval of Project in approved development area

There shall be payable by a developer for approval of a project in a development area a fee of 0.05% of the sale price of units/lots in an approved project.

6. Repeal

The Antigua and Barbuda Citizenship by Investment (Amendment) Act, 2014, No. 7 of 2014 is repealed.

Passed the House of Representatives on the
2016.

Passed the Senate on the
2016

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Speaker.

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President.

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Clerk to the House of Representatives.

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Clerk to the Senate.

EXPLANATORY NOTES

THIS Bill is an amendment to the Citizenship by Investment Act 2013. The proposed Act is intended to make Antigua and Barbuda's Citizenship by Investment Programme more competitive in the region. The two (2) primary changes are the dismantling of the Board and the overall administration of the programme by Cabinet as well as the introduction of the ability of applicants to attach an application for citizenship of a new spouse or new dependant to their main application provided it is done within the first five years of the approval of their citizenship. The intended Act also seeks to give new birth to the review panel as a way of applicant to appeal the decision of the Unit to denying their application. In this respect, the 2013 schedule to the Act and the amendments thereto have been repealed and the amendment to the Citizenship by Investment Act 2013 by No. 7 of 2014 have also been repealed.

CLAUSE 1 deals with the short title and commencement

CLAUSE 2 deals with the amendment to section 2 – the Interpretation section, by adding additional words associated with the programme to the vocabulary of the Act.

CLAUSE 3 amends the principal Act by repealing sections 2A to 2K of the principal Act and repealing the Antigua and Barbuda Citizenship by Investment (Amendment) Act 2014, No. 7 of 2014. Wherein the Board was created.

CLAUSE 4 deals with the amendment to the principal Act dealing with deprivation of citizenship. It places the Law at the position it was prior to the 2014 amendment.

CLAUSE 5 deals with the amendment of section 6 which is the authority for the Regulations made under the Act. This clause repeals the former 2013 regulations and introduces new regulations to govern the operation of the programme. In respect of the new regulations, there have been added three additional tiers to the schedule of fees. One tier concerns the review of citizenship which is to take place every 5 years. Particularly, the regulations never provided for the charging of a due diligence fee in respect of the review. Conducting a due diligence at this stage is necessary to maintain the integrity of the system; the second added tier is in respect of the attachment of new applications for citizenship where the main applicant has gained a new spouse or a new dependant within the first five years of the approval of their citizenship under the programme; and the third

tier introduces a fee for the assessment and approval of a project to be done by a developer in an approved development area.

CLAUSE 6 deals with repeals.

*Hon. Gaston Browne
Prime Minister
Minister of Finance and Good Governance*